REGAINING MOMENTUM

A report by
The Foreign Investors Council
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List of Abbreviations

AFM	Environmental Fund Administration
ANAF	National Agency for Fiscal Administration
APAs	Advance Pricing Agreements
APIA	Agriculture Payments and Intervention Agency
BVB	Bucharest Stock Exchange
CA	Contracting Authorities
CCR	Romanian Constitutional Court
CEE	Central and Eastern Europe
CES	Economic and Social Council
CHP	Combined Heat and Power
CSR	Corporate Social Responsibility
CVM	Co-operation and Verification Mechanism
EBRD	European Bank for Reconstruction and Development
EC	European Commission
EIB	European Investment Bank
EO	Economic Operators
ETS	Emissions Trading System
EU	European Union
FDI	Foreign Direct Investment
FIC	Foreign Investors Council
GD	Government Decision
GDP	Gross Domestic Product
GEO	Government Emergency Ordinance
GRI	Global Reporting Initiative
GOR	Government of Romania
HTA	Health Technology Assessment
IMF	International Monetary Fund
INS	National Institute of Statistics
IoT	Internet of Things
IPO	Initial Public Offerings
IT&C	Information Technology & Communication
ITU	International Telecommunication Union
MARD	Ministry of Agriculture and Rural Development

ME	Ministry of Economy, Commerce and Tourism
Ministry of Education	Ministry of Education and Scientific Research
Ministry of Environment	Ministry of Environment, Waters and Forests
MEF	Ministry of European Funds
Ministry of Labour	Ministry of Labour, Family, Social Protection and Elderly Persons
MF	Ministry of Public Finance
MIS	Ministry of Information Society
MT	Ministry of Transport
NBR	National Bank of Romania
NPRD	National Program for Rural Development
NPLs	Non-Performing Loans
NSDS	National Sustainable Development Strategy
OECD	Organization for Economic Co-operation and Development
OP	Operational Program
PPP	Public Private Partnership
PPW	Packaging and Packaging Waste
Q1...4	Quarter 1...4
R&D	Research & Development
RCBC	Romanian Clean Business Coalition
RON	Romanian Currency (singular Leu, plural Lei)
SBA	Stand-by Agreement
SIUI	Integrated Single Health Care Information System
SEE	South-Eastern-Europe
SMEs	Small and Medium-Sized Enterprises
SOE	State-Owned Enterprises
SOP	Sectoral Operational Program
TTIP	Transatlantic Trade and Investment partnership
UNGC	United Nations Global Compact
VAT	Value Added Tax
WEEE	Waste Electrical and Electronic Equipment

Macroeconomic Environment

Introduction

After growing 3.5% in 2013, economic activity continued to grow in 2014, albeit at a more moderate rate of 2.6 percent. The economy experienced strong growth in the first and third quarters of 2014, 4.0 and 3.2% respectively, whereas growth in the second quarter was disappointing (Figure 1). Private consumption emerged as a major contributor to growth in 2014, driven mainly by the rise in the minimum wage by 18% in July, rising consumer confidence, and interest rate cuts on the back of declining inflation. On the other hand, private investments remained subdued for the second consecutive year, held back by low industrial confidence (Figure 2). On a positive note, industrial confidence, which had been at low levels since 2008, had somewhat recovered towards the end of 2014.

Figure 1: Components of GDP growth

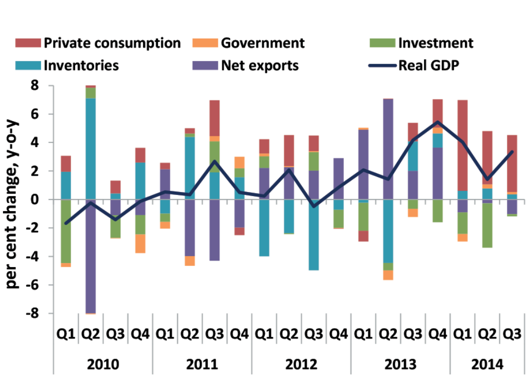
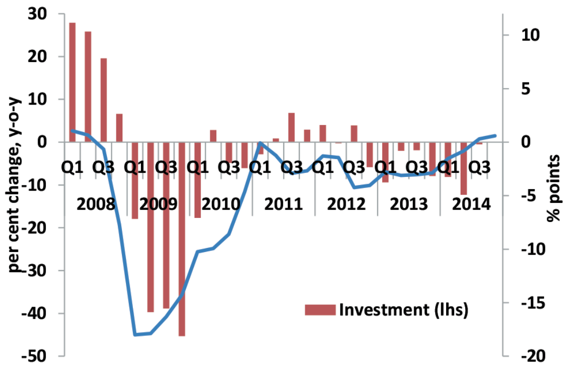


Figure 2: Investments and confidence



Source: National Accounts, National Bank of Romania

Net exports fell in relation to imports in 2014 and the balance of trade was negative. Rising consumption has boosted imports, while exports remained constrained due to continuing weakness in the Eurozone. With 51% of its exports destined for Eurozone countries and another 18% for other EU countries, Romania remains highly dependent on export demand from Europe.

Figure 3: Headline and core inflation

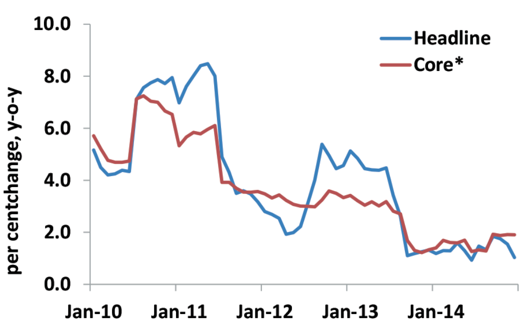
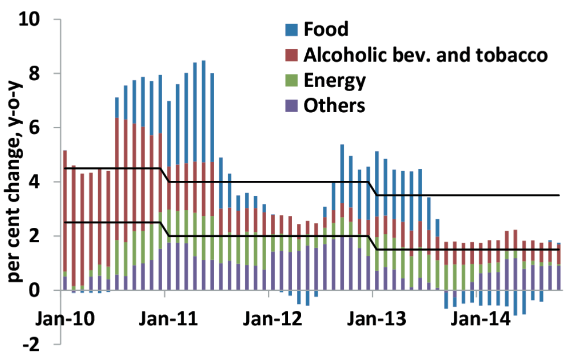


Figure 4: Components of inflation



Source: National Bank of Romania

Inflation remained below or around the lower boundary of the National Bank of Romania (NBR)'s target range of 2.5 ± 1% throughout 2014, declining to 0.8% in December (Figure 3). Low food prices, due to a good harvest and increased supply of food from countries affected by the Russian embargo, imposed in June 2014, declining energy prices, improved inflation expectations and base effects due to adjustments in administered prices in late 2013 are the main drivers of low inflation (Figure 4).

Romanian sovereign bonds have outperformed most of their emerging market peers in the last two years, as the country risk premium has been declining (Figure 5). The stabilisation in 2014 was partly caused by stabilised global liquidity, and foreign funds moving away from Russia to emerging markets. Yet improving fundamentals of the Romanian economy also contributed to the stabilisation process. The declining country risk premium helped the stabilisation of the currency (Figure 6).

Figure 5: Country risk premium measured by EMBI

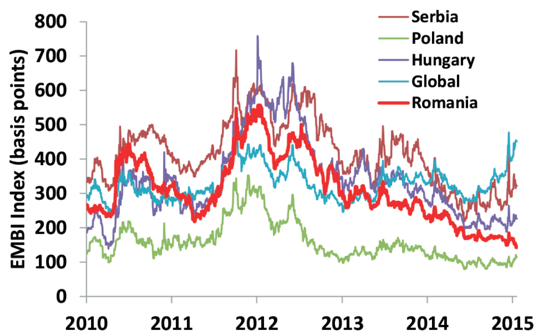
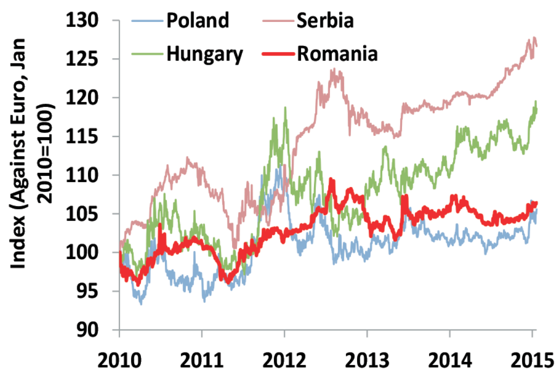


Figure 6: Exchange rates to euro



Source: Bloomberg

The equity market has been performing reasonably well since 2012, outperforming Romania's regional peers (Figure 7). The Romanian index partly benefited from historically low interest rates, and also from the additional cash in European markets due to the European Central Bank's stimulus package. As the Romanian index rose, equity and debt holdings of non-residents increased, with debt growing faster than equity (Figure 8).

Figure 7: MSCI index

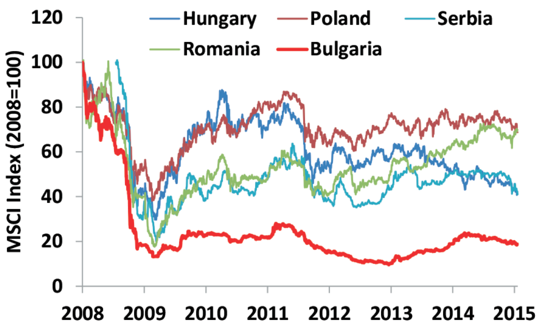
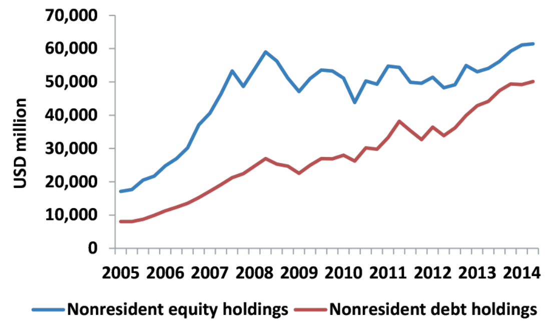


Figure 8: Non-resident equity and debt holdings



Source: Bloomberg, National Bank of Romania

External imbalances remained contained. The current account almost fully rebalanced, with the deficit declining to below 1% of GDP in November 2014, on the back of a higher surplus in the services balance and a lower deficit in the merchandise trade balance. External debt has been falling in the past two years, mainly on the back of repayment of a EUR 13 billion loan to the IMF and EUR 5 billion to the European Commission (Figure 9).

Figure 9: Current account and external debt

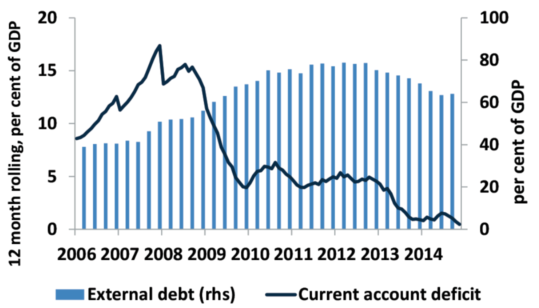
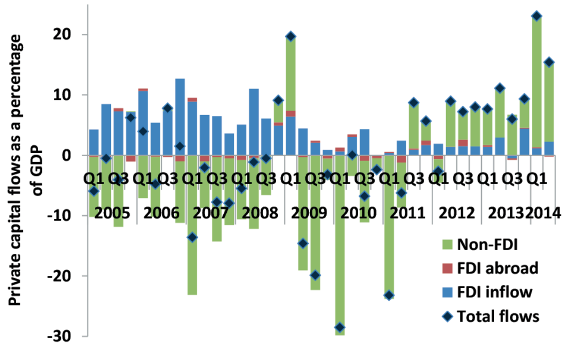


Figure 10: Private capital flows



Source: National Bank of Romania

With the onset of the crisis, foreign private capital inflows declined sharply. This decline reflected both the increased risk aversion of financial markets and Romania's vulnerabilities. It led to an external funding gap that was eventually closed by borrowing under a joint EU/IMF/World Bank financial assistance programme. The reduction in foreign capital inflows and the correction measures adopted under the programme led to an immediate but contained adjustment in domestic demand and to a quick recovery of economic growth, after a cumulated contraction in economic activity of almost 8% over 2009-2010.

The low current account deficit is now fully covered by Foreign Direct Investment (FDI), but the level of FDI in 2014 remained well below pre-recession levels (Figure 10). Improved economic fundamentals helped attract larger non-FDI inflows, but this type of inflow is usually more volatile than FDI and prone to shifts in global market sentiment.

The banking sector remained well capitalised, with a capital adequacy ratio of around 17% as of September 2014. But bank deleveraging continued in 2014, albeit with the maturity structure of banks' external funding changing favourably towards long-term funding. The loan to deposit ratio declined from above 120% in 2012 to 100% in the third quarter of 2014. This was reflected in subdued credit growth in 2014, partly due to the lack of demand for credit, possibly on the back of the still high number of non-performing loans (NPLs) in Romania. Nevertheless, following the NBR's initiative that allowed banks to keep legal claims against derecognized NPLs, these declined from a very high level of 20.4% in the first quarter of 2014 to a somewhat more moderate level of 15.3% in the third quarter of 2014.

Figure 11: Credit growth

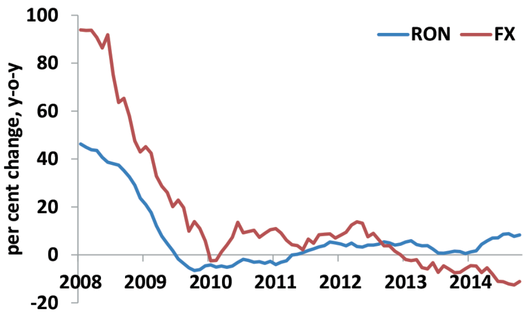
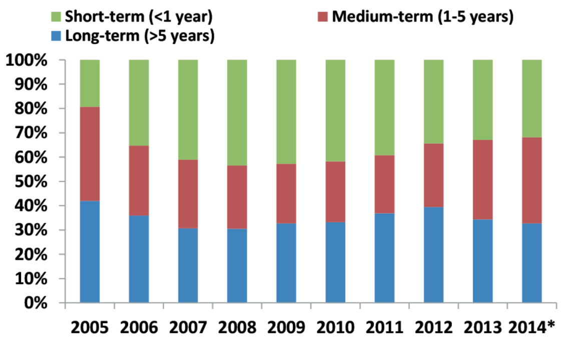


Figure 12: RON credit to private sector



Source: National Bank of Romania

The currency composition of loans to the private sector has improved since mid-2013, with lei-denominated loans now exceeding foreign currency loans (Figure 11). At the same time, the maturity structure of lei-denominated loans has also improved recently, with the share of short-term loans declining as a proportion of the total (Figure 12).

Policy response

Romania went through a significant fiscal adjustment after the start of the global recession in 2008, which helped bring the fiscal deficit down to below 2% of GDP in 2014 (Figure 13). In 2014, the scope for fiscal stimulus remained limited, while falling inflation opened up some space for monetary stimulus.

Romania has been on a 24-month Stand-by Agreement (SBA) with the IMF since September 2013, with access of EUR 1.98 billion. The completion of the third review for the program was originally scheduled for mid-2014, but then delayed until early 2015.

In 2014, budget revenues grew on the back of increasing social contributions, driven by the rise in the minimum wage, as well as better collection of corporate income tax. However, spending reductions have been driven mainly by cuts to public investments, which might adversely affect medium and long-term growth.

Figure 13: Fiscal deficit

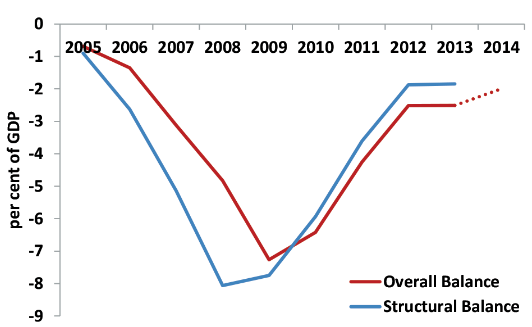
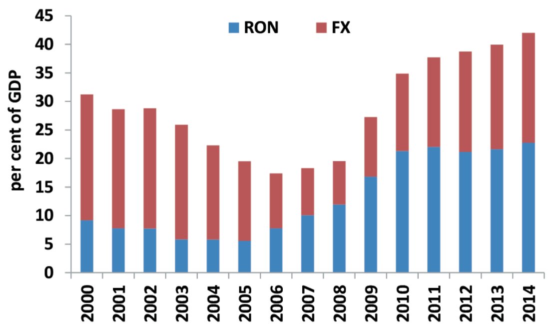


Figure 14: Public debt



Source: Ministry of Public Finance; 2014 value is the IMF estimate

Public debt edged up but remained moderate by regional standards, standing at 41.6% of GDP in November 2014[1]. Despite improvements over the past few years, a large proportion of debt is still exposed to foreign currency risk (Figure 14). However, the maturity structure of government debt has improved recently, partly as a consequence of favourable global liquidity conditions. The share of government debt with maturities longer than 5 years as a proportion of total debt increased to 35.6% in 2014 from 4.4% in 2012 (Figure 15).

A steady fall in inflation, on the back of declining food and oil prices, as well as declining expectations and base effects, gave the NBR the opportunity to cut the policy rate to a historically low level of 2.25% in February 2015. At the same time, market interest rates (e.g. ROBOR3M) declined to around 1.5% by February 2015 (Figure 16). To inject liquidity into the market and revive credit conditions, the NBR also lowered minimum required reserves on lei-denominated liabilities to 10% from 12% in September 2014, whereas reserves on FX-denominated liabilities remained at 14%. Provided that structural reforms in the country continue, and credible policies anchor inflation expectations, Romania may have a historic chance to maintain sustainable low interest rates for some time.

Figure 15: Government debt maturity structure

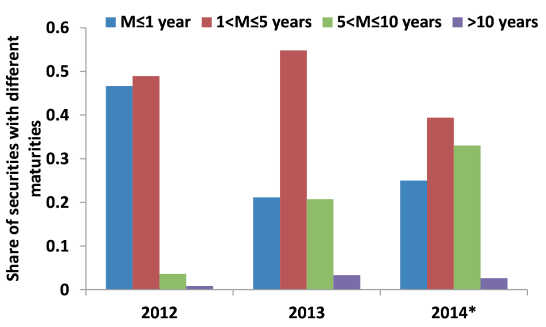
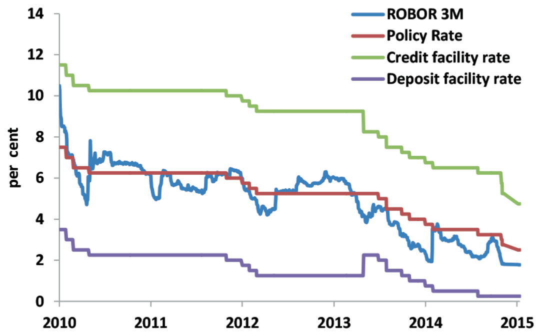


Figure 16: Interest rates



Source: National Bank of Romania

Outlook and Challenges Ahead

The European Commission (EC) forecasts 2.7% of GDP growth in Romania for 2015 and 2.9% for 2016. Recent and prospective interest rate cuts, driven by low inflation, will continue to boost domestic demand in 2015. After two years of decline, investment might rise on the back of rising industrial confidence and depleted inventories. The NBR's initiative to allow banks to keep legal claims against derecognized NPLs and lower minimum reserve requirements on lei-denominated liabilities may help credit growth, although credit growth revival in the medium term will much depend on the extent to which corporate sector activity is sustainably revived, e.g. through

1. According to EU methodology, Romania's public debt is 40.9 per cent of GDP in November 2014.

corporate restructuring, structural reforms, and a revival of FDI. To increase the absorption rate of EU-funds, which is currently almost 53.12%, government expenditure may need to increase slightly, although this will be limited due to ongoing IMF program commitments. Overall, these factors are expected to lead to a slight rise in domestic demand in 2015. However, net exports are likely be constrained due to continuing weakness in the Eurozone and increased geopolitical tension in the region, keeping growth at a still moderate rate of 2.7% in 2015.

In the medium term, Romania has high convergence potential, given its purchasing-power-parity-adjusted GDP per capita of 55% of the EU average. If necessary reforms to unlock the country's growth potential are implemented, the economy could reap the benefits of European and global recovery in years ahead.

To achieve this, Romania needs to further improve its business environment and make it more attractive for investors. Despite recent improvements, the country still ranks lower than most of its regional peers for ease of doing business. According to the World Bank's Doing Business 2015 Report Romania ranks 48th out of 189 countries, scoring particularly low for obtaining construction permits and obtaining electricity. Similarly, Romania ranks 59th out of 144 countries in the Global Competitiveness Report 2014-2015. The country scores particularly poorly on indicators relating to infrastructure, access to finance, tax rates, corruption and inefficient government bureaucracy.

The tax mix has improved over the years, but tax policy is changing frequently and revenue collection remains weak. Over the past years, indirect taxation, such as VAT and excise duties, has gained weight in the tax mix. The tax wedge was reduced in 2014 by a cut in social security contributions of 5 pps. across the board, after an increase by 3 pps. in 2009. However, frequent changes in tax policy continue to disrupt the business environment. Tax collection remains weak, and the VAT gap is the biggest in the EU27, at 44 % of GDP in 2012.

According to the EC Cooperation and Verification Mechanism report published in late-January 2015, Romania has made progress in judicial reforms and the fight against corruption. However, taking further firm steps against corruption remains a major challenge. Inconsistency of some court decisions, outstanding legislative issues and Parliament's lack of objectiveness in high-level corruption cases still cause concern.

The results of these surveys point to some concrete reform priorities for the enhancement of the business environment:

- Improving the quality of the transport infrastructure, which is low by EU standards, and extending a high-quality road and rail network to more distant parts of the country remain amongst the major priorities to encourage regional growth and attract FDI into the regions. Funding and capacity impediments restrict the development of large-scale infrastructure investments. EU and national funds are underused and may also be insufficient, making private sector participation an important alternative. While some public-private partnership (PPP) contracts have been attempted for road projects, there appears to be limited capacity to identify, carry out, and monitor PPP concessions in line with good industry practices.
- Despite significant liquidity in banks, which should be better channelled to the corporate sector alongside the sustainable resolution of NPLs, some segments of the economy, like start-ups and small and medium sized enterprises (SMEs), e.g. in the agribusiness sector, are underserved, impeding growth. Non-banking sources of funding, e.g. capital market products, are still underdeveloped. Broadening the sources of funding would ensure a steady supply of capital for start-ups, SMEs and other underserved segments, leading to a more balanced growth path for the economy.
- Liberalisation and deregulation efforts in the energy sector have advanced, but challenges still remain. The electricity price hike in 2013, in line with the liberalisation road map, helped form a functioning competitive electricity market for non-residential consumers. At the turn of 2014, the process of gas price liberalisation commenced for the same consumer segment. On the other hand, liberalisation for households, initially scheduled for the end of 2018, has been recently delayed to 2021. Cross-subsidisation between different consumer categories leads to inefficiencies in the market and prevents the formation of a full competitive market.

Infrastructure

Quality infrastructure is critical for economic growth, and in Romania much still needs to be done to upgrade the country's infrastructure to European standards. However, the pace of progress has been extremely slow, as improving infrastructure requires high amounts of resources. The state budget has limited funds allocated to infrastructure projects, absorption of EU funds for this purpose has been low and efforts to use alternative financing mechanism such as PPPs have not generated results.

A number of projects have encountered delays and cost overruns, resulting from design issues, developing tender books, a complex and administratively challenging procurement process, a lengthy and sometimes poorly co-ordinated process for obtaining the required approvals, lack of resources during the roll out for monitoring as well as other factors. These administrative challenges have afflicted infrastructure projects for the last two decades.

To improve coordination between the main stakeholders, the FIC recommends that the Government of Romania (GOR) should set up a program implementation unit which could be within the Ministry of Transport (MT) or a cross-ministerial body, which should be responsible for supervising the implementation of large infrastructure projects.

FIC members would strongly welcome greater involvement in infrastructure projects by the private sector, because some aspects of these can be outsourced. The private sector has considerable expertise which the Government can use to facilitate the development of more infrastructure projects at a faster rate.

Another recommendation aimed at increasing the impact of infrastructure projects, as well as maximising participation of the private sector in such projects – especially at municipal level – is to maximise the use of financial instruments in funding urban development projects. As opposed to the traditional grant approach, the use of financial instruments would stimulate local public administration to identify those types of infrastructure projects able to generate enough income to repay the financing resources and would provide Romania with long-term financing mechanisms for infrastructure projects.

Public procurement is by far the biggest issue when considering large project rollout. One of the least developed functions of the public procurement system is the provision of the stakeholders generally and of the contracting authorities with high quality, reliable and adequate market data. A simplification of the institutional architecture and a clearer delimitation of the control and verification functions between these institutions would be beneficial in accelerating procurement procedures and in avoiding conflicting opinions in control and verification of the process.

Labour

In 2013, in an attempt to clarify a number of shortcomings in existing legislation and to make the Economic and Social Council (CES) more effective, a new law was adopted with the aim of improving the efficiency of this institution. However, until now, the new legislation has not created a functioning framework to overcome the previous difficulties with the CES, and consequently a real forum for discussion, consultation, negotiation and joint action between the social partners still needs to be put in place.

The FIC considers that the main measure to be taken in order for the CES to function properly is to appoint new members to the CES plenary. To do this, the trade unions and the employers' organisations should take the necessary measures required to be able to designate representatives according to the agreed protocols for the distribution of seats in the plenary. The CES should also revise the composition of its specialised committees.

Unblocking the CES's activity is absolutely necessary for this body to exercise its main function of analysing and issuing opinions on all social and economic normative acts which government bodies propose.

In recent years, the state's spending on social security services amounted to a third of all general government revenues, making it the main cost in Romania's budget, amounting to 11% of GDP. Consequently, maintaining a sound, coherent and most importantly a sustainable system of social security services is of paramount importance for the health of public finances and that of the general macroeconomic balance.

Mandatory private pensions (2nd pillar), which currently serve more than 6.3 mn working Romanians, must be protected, first by completing the increase of the contribution quota transferred to the 2nd Pillar from 5% in 2015 to 6% in 2016, as required by existing legislation. Since the freeze in 2009, the contribution calendar has carried a lag of 0.5% every year, adding up to almost EUR 1bn in unrealized assets at industry level, compared to the initial contribution calendar. The recovery of the 6% contribution rate in 2016 would partly compensate this shortcoming and help consolidate the system.

The voluntary private pension system (3rd pillar), which manages the savings of some 345,000 members should also be consolidated by a gradual increase in fiscal incentives to facilitate citizens' enrolment into the schemes, including an increase in tax deductibility for employers' payments to these pension funds.

EU Funding

Over the past two years Romania has registered significant progress in relation to the absorption of EU Structural and Cohesion Funds. At present, the current absorption rate of structural and cohesion funds for the 2007-2013 financial framework has reached an estimated value of 53.12% (i.e. 10.73 billion euro), which is approximately 1.67 times higher than its level at the end of 2013, and 3.74 times higher than its level at the end of 2012.

Although the past few years have seen a significant improvement of the EU funds absorption rate, Romania continues to perform poorly compared with other countries. By the end of 2014 Romania ranked last but one among EU Member States, with the amounts paid by the EC representing 45% of the total financial allocation. The causes that led to this situation can be identified at all stages of programme planning and implementation during the 2007-2013 financial framework.

For the following programming period (2014 – 2020), the projects to be financed from EU funds should be correlated to a greater extent with public investments supported from governmental sources, so that all public funds, regardless of their financing source, will be allocated according to national development priorities. Effective coordination of all public funds could be achieved provided that Romania implements multiannual budgetary planning on projects and programmes, in close correlation with the 2014-2020 programming period.

The experience gained during the 2007-2013 programming period shows that the Romanian authorities should concentrate their efforts towards a more efficient use of technical assistance resources.

From the very start of the next programming period, activities such as evaluation of application forms, preparation of financing contracts, assessment of progress reports and reimbursement claims or the evaluation of Operational Programmes (OP) could be thematically grouped and outsourced to private entities through framework agreements. This measure could lead to a decrease in the number of public procurement procedures launched, with positive effects on both the efficiency of the EU funds management mechanism and the absorption process.

Financial institutions have extensive experience in granting commercial loans and their potential involvement in the absorption of EU funds may help increase the leverage effect on EU funds allocated to infrastructure projects. Besides, as a result of their increased involvement in the EU funds mechanism, public financial resources may be used more effectively to finance the specific priorities of public entities.

Environment and Sustainability

The FIC appreciates that the GOR is attempting to be proactive in discussions about new or revised EU environmental norms it needs to transpose, to ensure that these will not have significant negative effects on the business sector in Romania.

The FIC has some concerns about lack of legislative predictability and of social and economic impact assessments for new norms and considers that environmental regulations which may affect the business sector need to be discussed in advance with business sector representatives to allow the environmental authorities to consider and integrate business sector input into the new regulations and initiatives, at both national and European level.

The FIC hopes that the cooperation between authorities and business sector will also continue for the definition of the 2030 Energy and Climate Package (including carbon leakage provisions and EU-ETS reforms) and other environmental legislation to be developed and updated.

The FIC welcomes the Environmental Fund Administration's (EFA) achievements on financial support for environmental projects, in particular by promoting the landfill tax. However, most projects financed through the Fund over the last few years have mainly been related to the fleet renewal scheme (old cars scrapping scheme), heating systems in houses, renewable energy and some water and forest projects for local authorities. Private companies have not had the opportunity to apply for financing to support their environmental projects and needs.

The FIC considers that additional income coming from incentives for proper waste management (e.g., early application of the recently introduced landfill tax, instead of 2017) would significantly support Romania in achieving its commitments, especially if used only for financing projects (investment and operation) for developing waste management infrastructure.

Sustainability involves economic development which respects long term environmental and social well-being and Corporate Social Responsibility (CSR). CSR is a way in which companies can develop sustainably and support the wider community. Cooperation between authorities (ministries), the business environment and other stakeholders is necessary for the successful implementation of both Sustainable Development and CSR strategies.

Management of Public Institutions

The smooth functioning of institutions such as Parliament, Government, various state agencies as well as state-owned enterprises (SOEs) performing key activities in the economy provides the necessary framework for the healthy development of the business environment. Any new regulation should be accompanied by an impact assessment which takes into consideration the ways in which businesses, consumers or other laws and regulations will be affected by the new legislation. Government Emergency Ordinances (GEO) should only be used in cases of real urgency.

Recently there was a significant decline in the total volume of public investments, by about 0.3% of GDP compared to 2013. The Government should analyse what happened last year and draw the necessary lessons. In the light of those lessons, the prioritisation process of investments should be further advanced.

According to official statistics, the average wage in public administration (defence and similar sectors not included) is higher than the national average wage. The issue is how to better distribute the total payroll funds to individuals working for state institutions, without increasing it, by rewarding performance and responsibility.

The implementation of the corporate governance ordinance in SOEs (OUG 109/2011) has generated beneficial effects, both financially and in terms of transparency for the companies which apply these provisions. There are still a large number of companies which either have not initiated the implementation of the provisions of the ordinance, or have not yet finalised the selection process for professional management.

Separation between the state's role as shareholder and as lawmaker should be formalised. The state's role as policy maker should be to enact rules and regulations governing various sectors of the economy, while the state's role as majority shareholder in SOEs should be to maximise those companies' value for shareholders.

The listing procedures for SOEs initiated by the GOR in the last few years and supported by International Financial Institutions (IMF, World Bank) have had a positive effect on the Romanian capital market. Further listings and secondary offerings will contribute significantly to the local capital market's chances of being reclassified from frontier to emerging market status.

Energy

Liberalisation and respect for free market principles are key to attracting investors and ensuring that Romania's economy continues to grow and remains competitive. While the need for a transition phase is understandable and necessary, the Government should restore the confidence of private investors in a credible transition process designed to achieve full market liberalisation. This means that the pace of gradual moves towards complete price deregulation needs to be maintained. It also means that the Government and the regulator should focus on the immediate implementation of market instruments and conditions to ensure that, well in advance of the deregulation deadline, the wholesale market is functioning well and has adequate liquidity.

The modernisation of the energy production, transmission and distribution infrastructure is crucial to increase the efficiency of the system and ensure security of supply for consumers. The conventional power generation capacity needs to be refreshed as soon as possible to avoid potential blackouts in the medium term. Investments in new production capacities to replace some obsolete or mature assets and modernising transmission and distribution networks for all types of energy should be a priority for Romania.

Positive signals should be given by the Romanian authorities to investors in renewable energy, so that the value of their past investments is protected. In the medium term, development towards a new support mechanism is necessary to correct the deficiencies of the green certificate market and restore the trust of renewable energy producers in Romanian government policies.

Electricity transmission connections and the capacities of the system to supply surrounding countries should be enhanced and their development should be accelerated, alongside full market coupling.
The energy industry is a key sector that needs fiscal stability, predictability and fiscal transparency as investments involve high risks and require a long term approach.

The FIC supports the implementation of policies to achieve targets on energy efficiency while minimising the impact on energy prices and not affecting the functioning of the energy markets and also supports the improvement of Romanian legislation on energy efficiency.

Taxation

Consultation between the state authorities and the business community is essential to review both draft legislation and the implementation of existing legislation. There have been some good examples of improved communication with the business community. However, there is still a continuing problem of legislation being passed quickly, often at very short notice, and with little time for the business community to have effective input. Furthermore, tax inspectors' interpretation of legislation changes frequently and new interpretations are also applied to the past. This means that in practice, the rules can change unpredictably and dramatically.

Since the fiscal authorities often focus aggressively on companies which are actually paying the correct taxes, and which are large contributors to the budget, there is a major risk of a significant deterioration in the image of Romania in international business, the media, and diplomatic circles, including with the European authorities. The immediate consequence will be reduced FDI in Romania with the major risk that even existing investors could significantly reduce their presence or their investment plans.

The FIC considers that improving transparency should represent a top priority for the authorities as this will lead to an increase in predictability of the national tax environment and is also very likely to enhance trust among current and future investors. A non-transparent legislative process seriously compromises the potential for economic development, mainly because it acts as a deterrent to the attraction of foreign direct investment.

Tax evasion creates unfair competition, putting those who comply with the law at a disadvantage. The FIC welcomes and supports the Ministry of Public Finance (MF) and National Agency for Fiscal Administration's (ANAF) on-going work to tackle tax evasion and tax fraud. However, tax audits are not always focused in the right way to enhance revenue collection for the state budget. Tax evasion, affecting both direct and indirect taxes continues to be a problem.

Penalties for tax evasion should be increased and a list of taxpayers with arrears should be made public. Reform of ANAF should continue, to eliminate the practical deficiencies in fiscal administration, as well as creating an integrated public IT system connecting different authorities (such as fiscal, health, local administration, legal, and the land registry).

Intensified efforts to clamp down on the subterranean economy are a more effective way to increase budget revenue than aggressive targeting of honest taxpayers.

Technology & Innovation

Broadband infrastructure and services development, particularly in remote rural areas, remains one of the key challenges in Romania. In this context and considering the Government's active support for the development of fixed broadband connectivity behind the successful RONET initiative, the FIC recommends proactive support from the Government for the development of mobile broadband connectivity.

Currently, there are a variety of administrative barriers which significantly diminish the predictability and flexibility of infrastructure investments. We believe that the investment environment could be significantly improved by the rapid transposition into national legislation of Directive 2014/61/EU on measures to reduce the cost of deploying high-speed electronic communications networks, as well as modification of Law no. 154/2012 on the electronic communications infrastructure.

Law no. 580/2014 on cyber-security which passed in December 2014 included unclear provisions which may have subjected companies, including network operators and electronic communications providers, to unreasonable requests for access to information, unclear notification obligations or obligations which double already existing reporting requirements in the telecommunications sector.

Any legislative initiative on cyber security and prepaid registration should be preceded by a comprehensive process of consultation with the industry so that the final draft ensures an adequate balance between the public authorities' need to ensure national security and the fundamental rights and obligations recognised by the Romanian Constitution and international conventions.

Agribusiness

If the agribusiness sector is to further develop and increase its competitiveness several steps are required like medium and long term sector strategies, new sources of financing, increased investments in infrastructure or incentives for land consolidation and cooperation among farmers.

The recent strategy for the agricultural sector has failed to identify the key sectors from a competitiveness point of view. The ultimate goal of a strategy should be the prioritisation of investments based on a detailed analysis because this increases transparency and predictability, which are important prerequisites for stimulating investments.

One of the key issues keeping development of the agribusiness sector from reaching its true potential is the lack of availability of finance. Romanian farmers need to have access to increased collateral such as registered land, warehouse receipts (certificate de depozit) and crop receipts. Fine tuning the warehouse receipts system and decreasing its costs to final users would allow better use by a larger pool of operators. Agricultural insurance products should be further developed to cover drought and frost which are the main environmental risk to crops in Romania. The lack of insurance for these situations increases significantly the cost of commercial financing of operations.

Romanian agriculture will never be competitive without significant investments in agriculture related infrastructure at national level especially in access roads for agricultural lands and modern irrigation systems. The last major investments in access roads were made before 1989. Investments are also needed to slow down the process of desertification which is significant in the south of Romania.

The FIC recommends better designed incentives for the consolidation of agricultural land. The state should support those farmers which decide to come together in associations and to develop the land for agricultural purposes in a consolidated manner.

Healthcare

Despite the strong need for reform of the health system and many public commitments from Government to do so, advances on many issues have been limited and progress is needed on the following: adequate financing of the health system; adequate access to medicines for Romanian patients; full and correct implementation of the medical services basic package; reintroduction of copayment for medical services; better development of IT infrastructure in the healthcare sector; development and use of healthcare indicators for decision making; improvement to the predictability of national immunisation programs and financing, to ensure permanent availability of vaccines and diminish the risk of epidemics.

Romania faces a major crisis caused by a lack of healthcare professionals: in 2011 there were an average of 2.5 healthcare professionals for 1,000 inhabitants, compared to the EU average of 3.4. The migration rate is 9% compared to the EU average of 2.5%. In 2013, there were more physicians leaving the country than new graduates so the situation is likely to deteriorate further. Performance related pay should be introduced in the healthcare sector. The number of available places in Medical Schools should be increased to bring it into line with the population’s real health needs.

The FIC recognises that the current difficult economic situation has led to severe constraints on the healthcare budget. However, to ensure quality care for its population, the Romanian authorities should make spending on health a budgetary priority. The Government should commit to gradually increasing the healthcare budget as a share of GDP to 6% by the end of 2016, with a clear aim of reaching the European average by 2020 (currently 8.75%).

The provision of all healthcare providers with IT capabilities, as well as card reader deployment and usage for all family doctors. These simple setups can enable the use of existing health IT integrated systems by all players along the value chain, providing expected outcomes. Training and acquisition funding programs would also be beneficial.

A unitary and integrated concept of prevention and health promotion should be developed at central level to facilitate the implementation of the National Health Strategy 2014-2020. The concept should involve all the main stakeholders and provide efficient mechanisms for performance monitoring.

Education

For both the business sector and academia it is important to realise the opportunities and challenges of the current macroeconomic, political, social and cultural situation in Romania, to identify and take advantage of them in order to establish the foundation of a modern country, where its human resources are developed to the maximum. Currently, almost 70% of jobs in Romania are in sectors with little added value, a situation which has serious economic consequences in the medium and long term: there is a focus on low salaries, with Romania becoming a place of cheap labour.

A system of recruitment and training for teachers should be implemented, based on performance criteria. Universities should reintroduce entrance examinations to improve the quality of students, while at the same time testing their reasons for choosing one field of study or another. The FIC considers that there should be special focus on the legal framework for internships, with new legislation a priority. The fiscal burden on companies should be reduced, as an incentive to offer internships.

The FIC understands the need for a talented and qualified work force in industry and the difficulties faced by the Romanian vocational education system, due to common misconceptions as to its value. Consequently, the FIC recommends and supports a focused effort by both the private and public sector towards an improvement in the image of vocational education.

The FIC encourages the relocation of vocational schools to bring them into close proximity to the great industrialised areas. There is a clear lack of coordination between supply and demand in the Romanian heavy industry system from a geographical point of view. The FIC also understands that it would not be economically viable for companies to invest in vocational schools located a long way from their premises.

Public authorities should launch a thorough analysis of the fiscal environment and its associated legal framework and identify an effective solution for granting fiscal facilities to companies willing to invest in the vocational education system.

Small and Medium Sized Enterprises

Romanian SMEs have specific strengths and weaknesses that require special policy and strategy actions. Many of the traditional problems facing Romanian SMEs – lack of financing, difficulties in taking advantage of technology, constrained managerial capabilities, low productivity, and regulatory burdens – have become more acute in a globalised, technology-driven environment.

Small Romanian firms need to upgrade their management skills, their capacity to gather information and their technology base. The GOR needs to improve SMEs access to financing, information infrastructures and international markets.

The FIC advocates government policy and regulation to support the development of Romanian SMEs through the provision of regulatory, legal and financial frameworks conducive to entrepreneurship and small firm start-up and growth.

The GOR should make sure that the various strategies affecting SMEs are harmonised, and do not contradict each other. The National Competitiveness Strategy, the SMEs Competitiveness Strategy and Regional Development plans should all follow the same national strategic lines.

In terms of financing, Romanian SMEs have a high debt profile, blocking access to additional leverage (in relations with banks or other financial players) even when their businesses are sound, and they have development opportunities. They need capital to consolidate running their businesses and for expansion. There is a market opportunity for a private equity mechanism which would help SMEs add value to their businesses.

The FIC recommends the setting up of a private equity-like entity, with public-private capitalisation. Two entities need to be created: the fund itself and the management body to run the fund's business. The fund should also have an exit focus and should not plan to invest for a time horizon longer than three to five years. Returns from investments should be reinvested in the fund. The fund could develop partnerships with recognised International Financial Institutions (EBRD, IFC, EIB) to support the sustainable development of emerging markets. Even though the fund could be capitalised with public money its management should be private with a clear mandate.

Infrastructure

Quality infrastructure is critical for economic growth, and in Romania much still needs to be done to upgrade the country's infrastructure to European standards. Governments have acknowledged the important role that infrastructure plays in economic growth, stating it to be a top priority. However, the pace of progress has been extremely slow, as improving infrastructure requires high amounts of resources. The state budget has limited funds allocated to infrastructure projects, absorption of EU funds for this purpose has been low and efforts to use alternative financing mechanism such as PPPs have not yet materialised.

Romania has one of the lowest densities of highways (2 km / 1,000 sqkm) and one of the highest number of inhabitants/km of highways (36,585) in the EU. Moreover, according to the 2014-2015 Global Competitiveness Report prepared by the World Economic Forum[2] – Romania ranks 122nd in the world, out of 139 countries for quality of roads. The challenges faced in the development of infrastructure can really be summarised as lack of clear visibility of a plan for infrastructure development, as well as a history of project delays and cancellations and cost overruns.

1.1 Positive Developments

In April 2012 the Ministry of Transport (MT) kick-started a project for the preparation of an infrastructure Master Plan for the period until 2030. The Master Plan has been now developed and it is in the process of fine tuning. This is a very welcome development.
We also note that EU funds absorption for infrastructure projects has increased to 56%. A momentum can now be built to roll out a number of projects, starting from the Master Plan.

In order for the Master Plan to be an effective roadmap for infrastructure development several measures should be considered in terms of operational roll out:

- The time period covered by the Master Plan is quite long. There should be a prioritisation of the most important projects over shorter periods (e.g. 5 years). This prioritisation should also be adopted as a law by Parliament to ensure consensus around large projects and reduce discretionary changes of priorities in the short term.

- The funding mechanism is not yet clear. Given the shortage of financial resources in the national budget, one of the main criteria for prioritisation should be the source of funding (as use of EU funds and private funds should constitute a strong alternative to state budget financing):

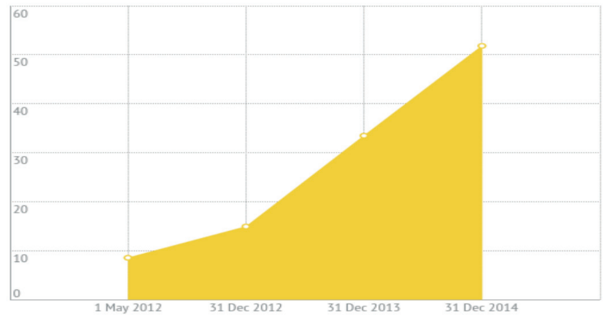
  - Projects financed by the EU should be at the top of the list.
  - Second on the list should be projects where private sector involvement is possible.
  - Projects funded through the state budget should come third, releasing pressure on public funds.

Although not covered by the Master Plan, regional infrastructure development should also be made a priority. Here not only state or EU funded projects should be considered, but also other projects which are economically viable. Legislation should be passed to allow alternative mechanisms and financing for these projects.

2. http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf

As mentioned in the Chapter devoted specifically to EU funds, there has been an improvement in the rate of absorption, due to a number of measures being taken by the GOR to ensure the necessary financial resources to pre-finance and finance the implementation of projects benefiting from EU financing. These measures have succeeded in removing most of the barriers to financing and have led to a smoother roll out of projects.

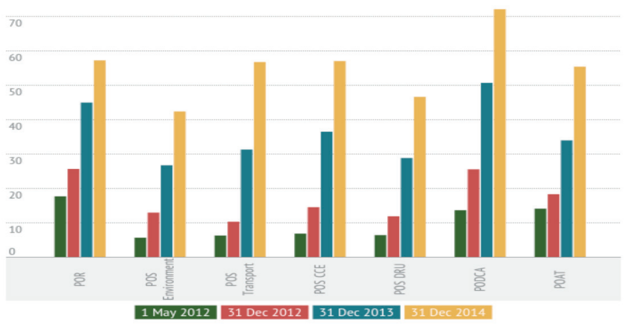
The development of the current absorption rate (%)



Source: Ministry of European Funds

However, the level of absorption is uneven between the operational programmes. The programmes focusing on infrastructure projects (SOP Transport) are still not the best performing.

Current absorption rate of operational programmes



Source: Ministry of European Funds

1.2 Areas for Improvement

1.2.1 Management of the implementation of infrastructure projects

A number of projects have encountered delays and cost overruns resulting from design issues, developing tender books, a complex and administratively challenging procurement process, a lengthy and sometimes poorly co-ordinated process for obtaining the required approvals, lack of resources during the roll out for monitoring as well as other factors. These administrative challenges have afflicted infrastructure projects for the last two decades.

FIC Recommendations

Much can be achieved by taking measures to address this gap in administrative capacity. The FIC understands that this will take time, but a consistent approach will help improve capacity while at the same time, lead to the development of better infrastructure.

There a number of ways this can be achieved. The FIC believes the following proposals, if adopted and maintained consistently, would result in improvement in administrative capacity and better implementation.

1.2.2 Program implementation unit

To improve coordination between the main stakeholders, the FIC recommends that the Romanian Government should set up a program implementation unit which could be within the MoT or a cross-ministerial body, which should be responsible for supervising the implementation of large infrastructure projects.

FIC Recommendations

This central unit should be resourced with technical, financial and legal expertise, as well as having the appropriate financial resources. The unit would be the overall responsible body for the carrying out of projects for the beneficiary, with clearly identified responsibilities, as well as authority to ensure that:

1) Consistency of performance is introduced into large project roll outs, as time passes and the unit matures;
2) Benchmarking is easier and can be a tool to provide guidelines and expert support to other projects on a case by case basis as and when requested;
3) An up to date and immediate project status is available and this department would facilitate addressing, minimising and eliminating potential problems during the project roll out;
4) Point of contact is brought to many relevant bodies as time passes;
5) The department would be permanent and hence loss of knowledge would be minimised.

1.2.3 Use of private sector expertise

Most infrastructure projects are by their nature very complex. Moreover, large infrastructure projects often require tailor-made, innovative solutions, which can be provided by highly experienced and knowledgeable experts. Considering the need, the existing resources at the Government's disposal at times may not be sufficient to carry out multiple projects simultaneously.

FIC Recommendations

FIC members would strongly welcome greater involvement in infrastructure projects by the private sector, because some aspects of these can be outsourced. The private sector has considerable expertise which the Government can use; to facilitate the development of more infrastructure projects at a faster rate.

Recent experiences in which the GOR has contracted International Financial Institutions (the World Bank, the EIB and the EBRD) to prepare strategic sectorial analysis, represent, in the FIC's opinion, positive examples of good practices in outsourcing such functions.

1.2.4 Use of financial instruments

As opposed to the traditional grant approach, the use of financial instruments would stimulate local public administration to identify those types of infrastructure projects able to generate enough income to repay the financing resources and would provide Romania with long-term financing mechanisms for infrastructure projects.

FIC Recommendation

Another recommendation aimed at increasing the impact of infrastructure projects, as well as maximising participation of the private sector in such projects – especially at municipal level – is to maximise the use of financial instruments in funding urban development projects. Besides the leverage effect that this approach has (by adding private to public resources), this would orient local and county public administration more to revenue generating projects and, by so doing, increase the economic growth in communities.

1.2.5 Public procurement

Public procurement is by far the biggest issue when considering large project rollout.

FIC Recommendations

The existing legal framework governing public procurement must be aligned with the new EU Public Procurement Directives. The new Directives encourage the public authorities to opt for innovative solutions, and not for the lowest price. The "best value for money" principle will allow the authorities to consider the technological component, the environmental impact, energy efficiency and life-cycle costs. This significant legislative reform in the public procurement sector should also offer the time to correct the procedural, regulatory and operational shortcomings that have been frequently raised by the business community and international fora. To achieve a better understanding of the parties involved i.e. the Contracting Authorities (CA) and Economic Operators (EOs), and to ensure better compliance, a review of the legal framework should be made in thorough consultation with both contracting authorities and economic operators. Where flexibility is allowed to the Member States as far as transposition into national law of the new EU Public Procurement Directives is concerned, an impact analysis of legislative changes must be carried out based on a cost/benefit analysis. This would also increase the stability of the overall procurement system.

As a consequence we propose the following measures to overcome existing bottlenecks and ensure a smoother roll out of projects:

- **Market analysis:** One of the least developed functions of the public procurement system is the provision of stakeholders generally and of the contracting authorities with high quality, reliable and adequate market data. The significant variance of the budget proposed in tender documents for similar types of acquisitions, raises serious doubts as to the consistency of the market analysis on issues such as level of competition, levels per type of acquisition, market prices for each main category of goods, services and public works, access of European companies to the public procurement market in Romania, as well as access to public acquisitions for Romanian companies on European markets, trends for public acquisitions in Europe etc. Enforcement of this function will help the contracting authorities better shape their tender requirements (in terms of qualification criteria, budgets and evaluation grids) and enable economic operators to better plan their resources and participate in public procurement procedures.

- **Institutional architecture:** The FIC noted in previous White Books that the institutional architecture overseeing the whole procurement system (regulating, monitoring, control and verification of public procurement) is very complex and - in the case of acquisitions financed by structural and cohesion funds - further institutions and authorities are carrying out control and verification activities. A simplification of the institutional architecture and a clearer delimitation of the control and verification functions between these institutions would be beneficial in accelerating procurement procedures and in avoiding conflicting opinions in control and verification of the process.

- **Staff capabilities:** after simplifying and line streaming the institutional architecture and after eliminating excessive bureaucratic workflows inside the institutions involved in public procurement, an assessment should be carried out to determine whether staffing levels are adequate for regulators, monitoring and control institutions and contracting authorities. These institutions should possess not only a sufficient number of people but, even more importantly, adequate levels of staff capability and experience. Appropriate remuneration to retain the most competent staff, as well as tailor-made training should be ensured across the system.

- **Restoring credibility of the system:** use of reputable independent experts in the entire process, beginning from the drafting of the tender applications and especially in the evaluation of offers. Improving the way prevention and detection of conflicts of interests, is carried out, as well as ensuring that appropriate civil and criminal proceedings are pursued when rules on conflicts of interest have been breached.

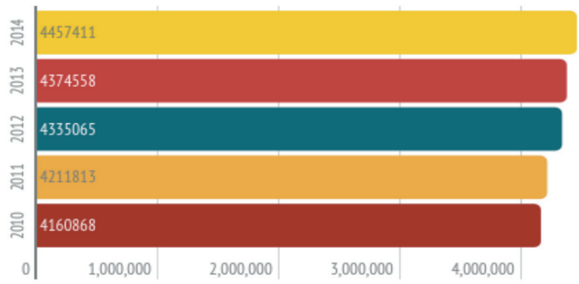
- **Ensuring increased effectiveness of procurement:** in full accordance with the principles set by the new directives for public procurement, the focus should be on cost-benefit perspectives and – as a consequence – changing the traditional paradigm of Romanian public procurement, which is based almost exclusively on price.

Labour

2.1 Positive Developments

In 2011, major modifications were made to the Labour Code to make labour legislation more flexible and better adapted to the socio-economic realities and needs of the present as well as to provide the proper conditions for the development of the business environment, while also providing a good level of protection for employees.
Even though we do not have enough studies to analyse the impact of the amendments made to the Labour Code on the flexibility of labour relations and the dynamics in the labour market, there are some variations of different indicators that make us confident that the modifications are welcome and have began to produce positive results.
For example, according to National Institute of Statistics (INS) data, from November 2010 to November 2014, the number of active employees increased by 7%, representing approximately 300,000 new employees.

Number of employees (Nov. 2010 - Nov. 2014)

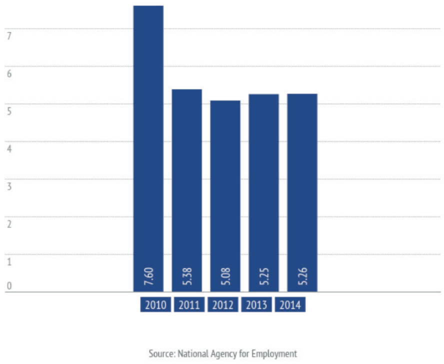


Source: INS

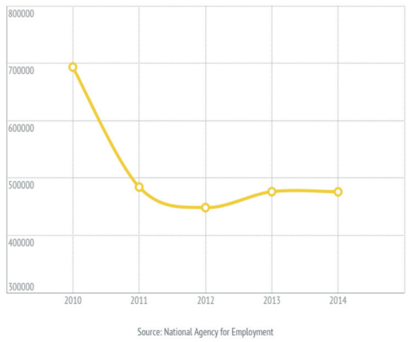
The rising number of employees could also be a result both of stronger legislation regarding the black market (the new labour legislation stipulates that employers who hire more than 5 persons without the proper legal formalities are liable and can be punished by imprisonment from 3 months to 2 years or by a fine under the criminal code) and the more frequent investigations undertaken by labour inspectors.

In Romania, illegal employment continues to be a significant problem. Different numbers are given to measure this phenomenon. For example, while the Romanian Labour Inspectorate reported 14,096 persons employed without proper legal forms in 2014, the Fiscal Council estimates that over 1.5 million persons are working on the black market. Hiring undocumented workers involves many risks, not only for the employees, who do not benefit from all their legal rights, but also for the state, as it deprives the state budget of significant amounts of revenue, and undermines the social protection system.
The unemployment rate has also improved. As shown in the tables below, unemployment dropped to 5.26% in 2014, which means there are approximately 475,000 people who are unemployed.

Unemployment rate - annual average (%)



Number of unemployed persons - annual average



Nevertheless, from 2010 to 2014, the minimum wage and the average wage have increased as shown below:

Gross minimum wage

670 RON

in 2010

900 RON

in 2014

Gross average wage

1721 RON

in 2010

2378 RON

in 2014

All these trends mentioned above have contributed to economic growth each year since 2011, rising by 3.5% in 2013, after a period of cumulative decline of more than 7% between 2009 and 2010.
In the medium- to long-term perspective, it is vital that these visible positive effects of the labour legislation modifications continue their ascending trend. It is also important to avoid any measure that could destabilize the labour market or have negative effects on progress registered and on the trust of foreign investors in the Romanian business environment.

In this context, the business community welcome the adoption by the GOR of the National Strategy for Employment in 2013, an absolutely necessary step towards an integrated approach to public policies in the labour market. We hope that this initiative will promote solutions that take into consideration economic realities and demographic trends and will take advantage of the potential of the workforce to help consolidate a competitive economy.

2.2 Areas for Improvement

2.2.1 Improvement of the framework for social dialogue

The current legal framework provides multiple opportunities for both bilateral and trilateral social dialogue, which must be taken advantage of to the full.
After the Tripartite Social Dialogue Secretariat (a body which performed only administrative activities) ceased to function in 1998, the National Tripartite Council for Social Dialogue, was established in 2011. This second body is chaired by the Prime Minister of Romania. Despite having a well defined structure[3], this new institution still does not function properly. As designed, it should operate consistently and, in compliance with all applicable laws. It should ensure the promotion of best practices in social dialogue, development and implementation of strategies, programs, methodologies and standards in social dialogue, as well as debate and analysis of programs and projects developed by governmental bodies.

It is absolutely essential that this body should send the right messages, adapted to Romania's economic realities, in terms of not restricting and promoting free competition in the labour market. An appropriate element of balance between the expectations of all the parties involved in the dialogue should be emphasised.

3. The National Tripartite Council is composed of representatives from employers and trade unions representative at national level, representatives of the Government and the National Bank of Romania, the President of the Economic and Social Council and other members agreed with the social partners.

Social Dialogue Committees, established at both central and local level should play a key role in ensuring social partnership between government, employers and trade unions. In practice, these social dialogue committees are rarely involved in negotiations, consultations or providing information.
The main advisory structure within the tripartite social partnership at national level is the Economic and Social Council (CES), which brings together representatives of trade unions, employers and civil society. Unlike similar bodies at European level[4], until now, the new legislation has not created a functioning framework to overcome the previous difficulties with CES, and consequently a real forum for discussion, consultation, negotiation and joint action between the social partners still needs to be put in place.

In 2013, in an attempt to clarify a number of shortcomings in existing legislation and to make the CES more effective, a new law was adopted with the aim of improving the efficiency of this institution. Consequently, the organisation and operation of the CES is now regulated in distinct legislation (Act Law no. 248/2013), and all previous provisions have been abrogated. The new legislation removed the participation of Government representatives in the CES, integrating the representatives of civil society and of the trade unions and employers' organizations. Changes have been made to the procedure to designate the representatives of trade unions and employers' associations in the CES, so that each trade union or employers' association representative at the national level is entitled to a place in the CES. In addition, the range of the CES's competences has been expanded, with new responsibilities to give its consent to normative acts adopted in many more fields.

FIC Recommendations

The FIC considers the main measure to be taken in order for CES to function properly is to appoint new members to the CES plenary. To do this, the trade unions and the employers' organisations should take the necessary measures required to be able to designate representatives according to the agreed protocols for the distribution of seats in the plenary. The CES should also revise the composition of its specialised committees, based on the new configuration and should enforce real and active participation within these working groups.
Unblocking the CES's activity is absolutely necessary for this body to exercise its main function of analysing and issuing opinions on all social and economic normative acts which government bodies propose.

2.2.2 Health and safety at work

The Romanian legal framework on health and safety of employees in the workplace has received significant attention from the authorities. Consequently, several pieces of legislation are in force in different fields and activities detailing the protective measures which employers are required to take, including Law no. 319/2006 on health and safety at work, (Law 319/2006) and Government Resolution no. 1425/2006 on Methodological Rules for enforcing the provisions of Law 319/2006 are the most important.

The FIC believes that this area is overregulated, placing too heavy a burden on employers, which need a certain flexibility. For instance, the current legislation sets out various general obligations which the employer has, but it can be very difficult to prove compliance with these, given their general nature. The legislation is also open to interpretation, which again makes compliance difficult.

As a general rule, any employer has, as its main health and safety obligation, as of the moment of commencement of its activity and throughout its entire existence, to take all measures to (i) assure the protection of workers at the work place and the prevention of professional risks; (ii) inform and train workers about and in relation to workplace health and safety; (iii) assure the organisational framework and the necessary means for the implementation of health and safety programs; and (iv) insure all workers for risk of accidents and professional diseases.

Furthermore, the events that may be qualified as work accidents are quite extensive and come with a great deal of responsibility for an employer (e.g. events that take place during sports competitions, or during performance of work by the employee when at home).

FIC Recommendation

The current legislation should be revised to set clear rules for the employer in this field instead of extensive general obligations that leave room for interpretation. Further, the incidents categorised

4. The European Economic and Social Committee is a consultative body of the European Union. Its opinions are required on the basis of a mandatory consultation in the fields established by the Treaties or a voluntary consultation by the Commission, the Council or Parliament.

as work accidents should be reanalysed so that they are reasonable, while continuing to respect HSSE international guidelines.

2.2.3 Working time and employment flexibility

More flexibility on working time would be very welcome, considering that the current Romanian Labour Code is more restrictive that the Directive 2003/88/EC concerning certain aspects of the organisation of working time **(Working Time Directive)**, which is the guideline for organisation of working time within the European Union.

Consequently, the Romanian legal framework should refer to the Working Time Directive which requires EU countries to consider certain minimum requirements, such as a minimum daily rest period of 11 consecutive hours every 24 hours and a minimum weekly rest period of 24 uninterrupted hours for each 7 day period, in addition to the 11 hours daily rest. Instead of referring to hours when calculating the working schedule, the Romanian Labour Code makes reference to days, which proves difficult to apply in practice, especially when work is organised in shifts.

Furthermore, the Working Time Directive allows member states to provide derogations from the minimum requirements in cases of special activities. However, the Romanian Labour Code does not provide for, nor allow such derogations.

FIC Recommendation

Considering the need to revitalize the employment market in Romania, a country still in the process of development it is of great importance to attract investors with a flexible working environment. Consequently the FIC emphasises the need to align the provisions of the Labour Code with those of the Working Time Directive which allow the setting of flexible working time. One major positive amendment would be to have references to hours instead of days when referring to weekly rest periods, as provided by the Working Time Directive.

2.2.4 Flexibility of transnational relationships – secondment of employees in Romania and abroad

Given the current global market and tendency for group companies to be increasingly multinational, the mobility of high qualified employees is essential for the development of companies and of society, in general. As such, the international expertise of foreign experts is required in Romania and Romanian experts are required abroad. Consequently, flexibility in the mobility of these experts is needed.
Romanian legislation needs to correlate the applicable legislation to accommodate mobility and make it more flexible so that Romania can benefit from the skills of highly qualified experts and Romanian experts enjoy an international career.

Currently, many provisions of the Labour Code are not correlated with European legislation on transnational secondment giving room for different interpretations and difficulty in implementation. The regulations on secondment should consequently be harmonised with those set at EU level.

FIC Recommendations

To clarify the current legal framework, the FIC emphasises the need to include special conditions on international secondment, which should be more flexible than those included in the Labour Code to allow the mobility of international experts.

Moreover, the FIC recommends the amendment, without delay, of the applicable Romanian legislation (specifically, GEO no. 25/2015) to reflect the spirit of the European legislation. Consequently, for foreigners seconded to Romania a 3 year period should be allowed instead of one year, to bring Romania into line with EU Directive 2014/66/UE.

2.2.5 Pensions & social security

In recent years, the state's spending on social security services has amounted to a third of all general government revenues, making it the main cost in Romania's budget, amounting to 11% of GDP. Consequently, maintaining a sound, coherent and most importantly a sustainable system of social security services is of paramount importance for the health of public finances and that of the general macroeconomic balance.

Public pensions make up almost 75% of all social expenditures, and the pay-as-you-go system's considerable financial deficit is one of the main causes for concern. In the longer run, the sustainability of the public pensions system is still precarious and demographic forecasts are adverse: Romania is set on the path of a rapidly ageing and shrinking population, and on current trends will become one of Europe's "oldest" nations by 2050. Consequently, reform of the public pension system on its own is not enough to consolidate the pension budget in the long term and to secure adequate pensions for future generations of Romanians. As a consequence, further development of the private pension system launched in 2007-2008 is absolutely necessary to improve the general capacity of the pension system to meet the expectations of the active population.

In parallel with the reforms in the public pensions system undertaken since 2011, private pension schemes have continued to grow and consolidate and have even started to make a considerable positive difference in the country's growth and the development of capital markets. Mandatory private pension funds (2nd Pillar) have benefitted from a steady statutory contribution increase from 2% in 2009 to 5% in 2015 (+0.5% per year), while the lesser developed voluntary private pension schemes (3rd Pillar) have registered a slight increase in membership and contributions, partly encouraged by the tax deduction of EUR 400/year.

Since their launch in 2007-2008, private pension schemes in Romania have earned some 6.7 million members (individual accounts), reached combined net assets under management of more than RON 20bn and posted robust investment performance. The 2nd mandatory pillar recorded an average annual return of more than 11% from the date it was set up until the end of 2014 whereas the average annual return of 3rd pillar voluntary funds exceeds 8%.

Furthermore, private pension funds have gained an ever-growing role on the local capital markets, especially the Bucharest Stock Exchange (BVB), where they can already be considered the largest domestic institutional investors. Pension funds reached holdings in excess of EUR 730mn in BVB listed equity (end-2014). They account for more than 10% of the market's trading volumes and they have also had a decisive role in the success of the Romanian Government's public offers (Nuclearelectrica, Romgaz, Electrica) on the market.

Currently, private pension funds invest up to 95% of their assets domestically and retain a very low risk profile, with 75%-80% of all holdings invested in money market instruments and various bonds. As the banking sector continues the deleveraging process, pension funds provide the alternative much needed capital for development, contributing to the financing of public companies and the optimal allocation of resources in the economy via the stock market.

FIC Recommendations

The FIC recommends the preservation of legislative stability in the private pensions sector and of the system's general viability. For the mandatory private pensions 2nd Pillar, we recommend a continued increase in the transferred contribution rate towards pension funds from 5% in 2015 to 6% in 2016. Proper payout phase legislation, which has already faced long delays, should also be adopted. Further measures to encourage the coverage growth of voluntary pension funds (3rd pillar), including an increase in tax deductibility for employers' payments to these pension funds from the current EUR 400 per year to EUR 1,000 per year, are also desirable in the short to medium term.

Legislative predictability and stability is of paramount importance for the success of a long-term savings system such as the still young private pension system of Romania. The sound development of private pension funds and positive investment performance to the benefit of the 6.7 million contributors depends on a favourable, stable and predictable legislative environment that should not change the performance-proven essential parameters of the system.

Mandatory private pensions (2nd pillar), which currently serve more than 6.3mn working Romanians, must be protected, first by completing the increase of the contribution quota transferred to the 2nd Pillar from 5% in 2015 to 6% in 2016, as required by existing legislation. Since the freeze in 2009, the contribution calendar has carried a lag of 0.5% every year, adding up to almost EUR 1bn in unrealised assets at industry level, compared to the initial contribution calendar. The recovery of the 6% contribution rate in 2016 would partly compensate this shortcoming and help consolidate the system. Furthermore, the broad viability of the whole system must also be protected, especially with respect to cost efficiency.

The voluntary private pension system (3rd pillar), which manages the savings of some 345,000 members should also be consolidated in the short to medium term by a gradual increase in fiscal incentives to facilitate citizens' enrolment into the schemes, including an increase in tax deductibility for employers' payments to these pension funds from the current 400 euros per year to 1,000 euros per year. At the same time, the already delayed adoption of proper payout phase legislation would eventually help close the circle of primary legislation and anchor contributors' expectations and trust into the private savings system.

EU Funding

3.1 Positive Developments

Over the past two years Romania has registered significant progress in relation to the absorption of EU Structural and Cohesion Funds. Although, at the end of 2012 Romania had an absorption level[5] of EU funds of only 14.9%, statistical data recorded in December 2013 show that the value of this indicator had reached approximately 33.5% by then. At present[6], the current absorption rate of Structural and Cohesion Funds for the 2007-2013 financial framework has reached an estimated value of 53.12% (i.e. EUR 10.73 billion), which is approximately 1.67 times higher than its level at the end of 2013, and 3.74 times higher than its level at the end of 2012.

The results obtained over the past two years can be explained through the adoption of a set of measures by the Romanian authorities in charge of the administration of Structural Funds. The most important measures aimed at increasing the rate of absorption are presented below:

- Improvement of cash flow for public and private beneficiaries which are unable to pay invoices for supplies, works and services by introducing the direct payments mechanism for payment claims (GD no. 27/2013 and GD no. 76/2013).
- Decrease of the procedural time frame for processing reimbursement claims from 45 to 20 working days (GD no. 84/2013).
- Temporary allocation of amounts drawn from payments related to privatisation towards the main credit holders acting as Managing Authorities for the period of pre-suspension of Operational Programmes, to secure the funds necessary for internal payments to final beneficiaries.
- Adoption of a set of measures aimed at ensuring an adequate cash flow for entrepreneurs, as well as at increasing the absorption of Structural Funds, such as: introducing the possibility to modify work contracts in projects financed through SOP Environment and SOP Transport to decrease the minimum value for interim payment certificates to 150,000 euro (RON equivalent) (Order of the Minister of EU Funds no. 1126/2013).
- Reimbursement by the EC of expenditure already incurred within major projects financed through SOP Environment and SOP Transport, prior to the issuing of approval decisions by the European Commission (GD no. 503/2013 and GD no. 523/2013).
- Improvement of beneficiaries' cash flow by covering from the state budget the amounts corresponding to the financial corrections, but only for the cases where beneficiaries cannot be held responsible (GO no.14/2013 and GO no.15/2013).
- Approval of the simplified procedure for the award of contracts for goods, works and services in the case of private beneficiaries (Order of the Minister of EU Funds no.1120/2013).

5. The ratio between the value of monthly declarations of expenditure submitted to the European Commission and the total value of financial allocations corresponding to the all Operational Programmes financed under the Convergence objective.
6. March 2015

- Adoption of tax regulation measures aimed at exempting beneficiaries from the payment of interest and delaying penalties normally collected by the state in the case of tax obligations that are not paid on time, in the case of delayed payments to beneficiaries by the authorities responsible for the management of EU funds.

For the allocations for the 2014-2020 financial framework, Romania is currently undergoing negotiations with the EC to complete and approve the OPs. The Partnership Agreement, approved by the EC in August 2014, has already established a set of simplifying measures to facilitate the absorption of EU funds. Thus, the institutional configuration corresponding to the 2014-2020 framework has been compressed, the Managing Authority attributions going only to the Ministry of Regional Development and Public Administration, the MARD and the MEF. So far Romania has sent, formally or informally, the following OPs to the EC: OP Large Infrastructure, OP Competitiveness, OP Human Capital, OP Technical Assistance, Regional OP, OP Administrative Capacity, OP Aid to the Most Deprived and NPRD. In addition to these programmes, Romania will receive non-reimbursable financial assistance through the OP for Fisheries and Maritime Affairs, 12 European Territorial Cooperation Programmes (7 programmes corresponding to Cohesion Policy, 4 cross-border cooperation programmes corresponding to Neighbourhood Policy and the IPA Cross-border Cooperation Programme), the Youth Employment Initiative, Connecting Europe Facility, Direct payments to farmers etc.

By the end of December 2014, the EC had already approved three OPs through which Romania will receive EU Structural and Investment Funds corresponding to the 2014-2020 programming period. The three approved programmes are OP Competitiveness, OP Technical Assistance and OP Aid to the Most Deprived.

The priority funding areas and the corresponding financial allocations for the 2014-2020 programming period are presented later:

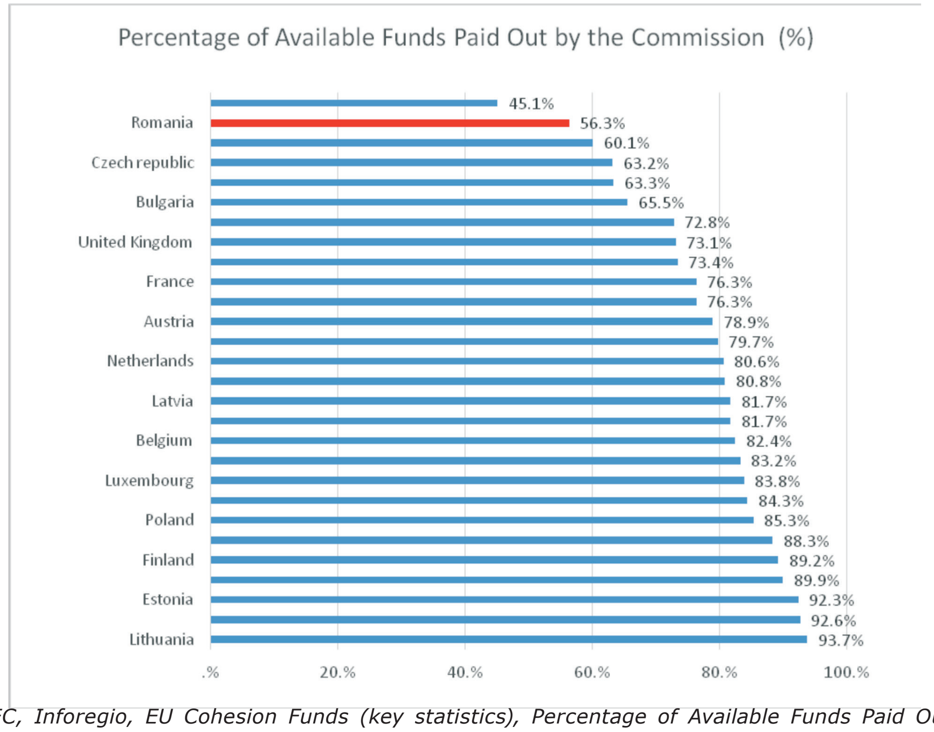
Priority funding areas and corresponding financial allocations for the financial framework 2014 - 2020

Programme	Priority funding areas	Financial support (mEUR)	Managing Authority
Operational Programme Large Infrastructure	• Transport, environment, resource efficiency, reduction of carbon emissions	9,418.52	The Ministry of European Funds (MFE)
Operational Programme Human Capital	• Support for education, social inclusion, tackling unemployment, reduction of poverty and discrimination	4,326.84	
Operational Programme Competitiveness	• Research, Technological Development and Innovation (RDI), • Information and Communication Technologies (ICT)	1,329.79	
Operational Programme Technical Assistance	• Increasing the capacity of ESI funds beneficiaries, support for the promotion of the Cohesion policy role and the utility of these funds, support for the management, implementation and control of ESI funds by ensuring the human resources, the adequate institutional framework and the necessary tools.	212.77	
Operational Programme Aid to the Most Deprived	• Acquisition of food supplies, as well as school supplies for children in difficulty	442.56	
Operational Programme Administrative Capacity	• Strengthening the institutional capacity of Public Authorities and stakeholders, an efficient Public Administration	553.19	The Ministry of Regional Development and Public Administration (MDRAP)
Regional Operational Programme	• Increasing the competitiveness of the SME sector, supporting the shift towards a low-carbon economy in all sectors	6,700.00	
National Programme for Rural Development	• Supporting the growth of the agri-food sector, agriculture, employment in rural areas, natural resources, basic infrastructure and services in rural areas, sustainable management of agricultural and forestry lands	8,015.66	
Operational Programme for Maritime Affairs & Fisheries	• Supporting sustainable development, reducing the impact of fishing on the marine environment, sustaining the diversification and bringing added value to the fishery and aquaculture products	168.42	
Operational Programme European Territorial Cooperation	• Solving cross border issues and sustaining the joint development of various territories' potential	450.00	
Direct payments in agriculture	• Ensuring stable incomes and aid to agricultural producers independent of the volume of production obtained	10,000.00	The Ministry of Agriculture and Rural Development (MADR)
"Connecting Europe" Facility	• Transport infrastructure, energy and information and communication technologies (ICT)	1,230.00	

Sources: Ministry of European Funds, Resume of the Partnership Agreement with Romania (2014-2020), Inforegio - http://www.inforegionordest.ro/noutati/stiri/adoptare-acord-parteneriat-2014-2020

3.2 Areas for Improvement

Although the past few years have seen a significant improvement in the EU funds absorption rate, Romania continues to perform poorly compared with other countries. By the end of 2014, Romania ranked last but one among EU Member States, with the amounts paid by the EC representing 45% of the total financial allocation for the European Regional Development Fund, the Cohesion Fund and the European Social Fund, both for the Convergence and the Territorial Cooperation Objectives. Romania bettered only Croatia, which became an EU Member State in mid-2013 and occupied last place among all other Members States in CEE.



Source: EC, Inforegio, EU Cohesion Funds (key statistics), Percentage of Available Funds Paid Out by the Commission 2014 https://cohesiondata.ec.europa.eu/
Note: The absorption rate represents interim payments made by the Commission, excluding pre-financing.

The causes that led to this situation can be identified at all stages of programme planning and implementation during the 2007-2013 financial framework.

Late launch of calls for proposals

For most OPs the launch of the calls for proposals did not occur in 2007, but 12-18 months from the start of the 2007-2013 programming period. This fact was reflected in a low value of expenses reimbursed by the EC between 2007 and 2009, with negative effects on the absorption level for that period. These delays in launching the calls for proposals resulted in additional pressure even in the following years of the 2007-2013 programming period. The Romanian authorities responsible for the management of EU funds needed to compensate for the time lost to ensure the full absorption of financial allocations for the first years of programme implementation. As the new OPs had not yet been approved by the EC by the end of 2014, it is hoped that this situation will not be repeated in 2014 - 2020.

Fragmented structure of OPs and insufficient correlation with national strategies

Firstly, the numerous socio-economic development needs identified at the national level led to a fragmented structure of the OPs, which resulted in low fulfilment levels. Furthermore, a series of interventions targeted at similar categories of beneficiaries were dispersed in different Operational Programmes (financing small enterprises through the Regional OPs and other private entities through the Competitiveness OP), which led to fragmentation and reduced efficiency of the financial support offered.

Secondly, the development needs specified in the programming documents corresponding to the 2007 – 2013 financial framework were identified in the context of EU funding planning, without being supported by a genuine analysis of the country's development needs and growth potential. Consequently, identifying national development priorities was more the result of Romania's obligations as an EU Member State rather than the result of a comprehensive, rigorous analysis of the country's development needs. As a consequence, the areas financed through EU funding were not always connected to national strategic priorities and did not entirely reflect public policy adjustments. The lack of an articulated strategic vision of Romania's development needs and the insufficient correlation of intervention areas financed through EU funds with national strategies might also impact upon the results for the 2014-2020 programming period.

Difficulties in the preparation and implementation of projects financed from EU funds

The relatively low level of EU funds absorption in 2007-2013 was also caused by the numerous problems and difficulties encountered by public and private beneficiaries during the preparation and the implementation phases of the financed projects.

- Successive and substantial changes in the Applicant Guides during the process of project submissions, such as changes in and additions to the list of eligible activities and expenses or modifications related to support intensity.
- Excessive bureaucratic procedures during the project implementation stage (e.g. duplication of checks of the reimbursement claims at the Managing Authorities level as well as at the Intermediate Bodies level as a result of the requirements imposed by the Audit Authority and by the audit missions carried out by the EC, numerous supporting documents to be submitted in hard copy for each reimbursement claim).
- Difficulties for the private sector in ensuring their own contribution to eligible costs and to cover ineligible costs because of tightening credit standards and terms as a result of the financial and economic downturn.
- Difficulties encountered by the beneficiaries in carrying out public procurement procedures due to their lack of experience, different interpretation of various legislative issues, large number of complaints filed by tenderers and the length of the settlement period.
- Failure of local and central public beneficiaries to plan and include the necessary national contributions in multi-annual budgets, the co-financing of EU supported projects being ensured by including the expected amounts in successive annual budgets.
- Frequent changes in the institutional framework through the reorganisation of the management and control systems for some OPs (e.g. relocating the Intermediate Body for SMEs within the SOP IEC Managing Authority, setting up the SOP IEC Intermediate Bodies within the Regional Development Agencies, relocating the SOP HRD and SOP IEC Managing Authorities from the Ministry of Labour and the ME to the MEF), with negative effects upon the implementation of projects financed through these instruments.
- Limited capacity of some public beneficiaries to prepare and implement major environment and transport projects.

The limited experience of the Managing Authorities'/ Intermediate Bodies' staff in preparing tender documentation for technical assistance services, the insufficient number of qualified staff in public procurement, the restrictions on hiring new staff for vacant positions in the public sector as a result of the measures imposed by the GOR during the economic crisis and the increasing number of contested procurement procedures led to significant delays in the use of technical assistance resources. Delays in contracting technical assistance services had negative effects on the pace of the project evaluation and approval stages, as well as on the assessment of the reimbursement claims and the duration of payments, with direct repercussions on the absorption rate.

Restrictions on filling vacancies, remuneration and fluctuations of staff responsible for management and administration of EU funds

Remuneration of civil servants dealing with EU funds affected the absorption rate, as it relates to the capacity of the public authorities to recruit and retain professionals with experience of EU funds management and administration. Several Managing Authorities and Intermediate Bodies (e.g. MA SOP DHR) have also been faced with high staff turnovers, the insufficient institutional capacity reducing their chances of achieving the absorption targets. Recruitment freezes have significantly increased the workload for the staff responsible for the management of European funds. The low level of salaries as well as the increased workload induced by hiring restrictions resulted in additional staff turnover.

Delays in the submission and evaluation process of reimbursement claims

The main causes that led to such delays were:

- Frequent changes made by the beneficiaries in the timetable of reimbursement claims as a result of the 6-12 months delays on works contracts.
- Slow pace of works execution.
- Submission of numerous low value reimbursement claims as compared to the total value of the financing contract.
- Complexity and lack of consistency of the procedures related to the assessment of reimbursement claims.
- Large number of required supporting documents.
- Limited number of well-qualified experts on the market and their low level of specialisation in the evaluation of reimbursement claims.
- Lack of expertise among the beneficiaries in relation to the preparation of reimbursement claims.

- Delays in outsourcing evaluation services of reimbursement claims.

In addition, the Managing Authorities' and Intermediate Bodies' staff proved to be insufficient, leading to a slow pace of processing the reimbursement claims and a low absorption rate.

FIC Recommendations

The FIC's recommendations aim to advance measures that could contribute to the acceleration of the EU funds absorption process, corresponding to the 2007-2013 programming period, as well as measures to improve the management of EU funds allocated for the following programming period.

• 2007-2013 Programming period

For the 2007-2013 programming period, the FIC recommends speeding up the launching of calls for proposals and prompt contracting of all funds still available within the OPs, including technical assistance. Urgent contracting of unused resources for technical assistance could provide the expertise necessary for the effective evaluation of application forms submitted under the latest calls for proposals. Also, contracting external experts from technical assistance resources could remove current deadlocks in the departments responsible for processing reimbursement claims and performing monitoring and control missions.

In order to maximize the absorption rate by the end of 2015, the FIC recommends rigorous monitoring of both the savings registered within funded projects and the projects at risk of termination, as well as contracting new projects on the reserve lists to counter the effects of the two factors mentioned above. To avoid decommitment of significant amounts at the end of the 2007-2013 financial framework, rigorous planning is required, as well as a permanent update of the centralised timetables of the reimbursement claims (established by the Managing Authorities, based on the individual timetables corresponding to each project), strict monitoring of the commitments undertaken by beneficiaries in relation to the submission of reimbursement claims and the situation of payments.

To avoid negative effects on the absorption rate and the issuing of new debit notes by the EC for projects with a value of over EUR 5 million, which will not be finalised by 31 December 2015, the following issues should be taken into account:

- Analysing to what extent these projects could be phased.

- Speeding up the development of working procedures within Managing Authorities for phasing the projects.

- Analysing to what extent these projects could be financed from the state budget, so that they are finalised in 2016 and included in the final expenditure declaration to be sent to the EC in March 2017.

• 2014 – 2020 Programming period

For the following programming period (2014 – 2020), the projects to be financed from European funds should be correlated to a greater extent with public investments sustained from governmental sources, so that all public funds, regardless of their financing source, will be allocated according to national development priorities. The need for inter-ministerial dialogue enhancement is now more pressing that ever, to identify and rank Romania's main strategic development directions. Defining a clear set of development priorities is a prerequisite for ensuring that projects co-financed by the EC and those financed from budgetary sources complement each other better, with positive effects on the sustainability of the support measures for the national economy.

An effective coordination of all public funds could be achieved provided that Romania implements the multiannual budgetary planning on projects and programmes, in close correlation with the 2014-2020 programming period. The allocation of state funds resources to credit holders should reflect their capacity to propose and implement European projects with significant impact on local communities. Such a measure could lead to a more efficient use of the different financing sources (EC, state budget funds).

The experience gained during the 2007-2013 programming period shows that the Romanian authorities should concentrate their efforts towards a more efficient use of technical assistance resources.

According to EC Regulation no. 1303/2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund, general provisions on the European regional Development Fund, the European Social Fund and the Cohesion Fund for Fisheries and Maritime Affairs and repealing Regulation (EC) no. 1083/2006, Member States should ensure that, by 31 December 2015, all exchanges of information between beneficiaries and a managing authorities, the certifying authority, the audit authority and intermediate bodies will be made through electronic data exchange systems. Taking into consideration that these requirements are a condition for the accreditation of the management and control system, national authorities should adopt the necessary measures to develop and test this system as soon as possible.

Launching the procurement procedures for technical assistance services should be adequately correlated with the planning of the calls for proposals, thus optimising the use of outsourced resources, while avoiding new blockages within the Romanian authorities responsible for the administration and management of EU funds.

From the very start of the next programming period, activities such as evaluation of application forms, preparation of financing contracts, assessment of progress reports and reimbursement claims or the evaluation of OPs could be thematically grouped and outsourced to private entities through framework agreements. This measure could lead to a decrease in the number of public procurement procedures launched, with positive effects on both the efficiency of the EU funds management mechanism and the absorption process.

Speeding up the absorption of EU funds could also be enhanced by modifying the public procurement laws and regulations, in such a way that technical assistance contracts are awarded based on the best value for money principle rather than the lowest price award criterion.

In addition, technical assistance resources should be used to a greater extent to increase the salaries of the Managing Authorities’ and Intermediate Bodies’ staff involved in the management and administration of EU funds. This measure could enhance the motivation of existing staff and attract suitably skilled new professionals specialised in EU funds management and administration.

Improving the absorption process of EU funds over the 2014-2020 programming period could be achieved by increasing the role of the financial institutions and by successfully using various financial instruments. Speeding up the EU funds contraction and absorption processes could be achieved by expanding the use of the wholesale absorption system. This system has already been used within the JEREMIE Initiative and consists of the involvement of commercial banks in the financial frameworks related to OPs. A similar mechanism, where commercial banks have been involved in fund disbursements to beneficiaries has already been used in the case of the European funds for agricultural activities. The FIC recommends the use of wholesale absorption by increasing the involvement of the banking sector in various stages of the selection and implementation of EU co-financed projects. One option could be to group the projects by implementation type, with the grants for the private sector being transferred into financial engineering instruments and channelled via financial institutions. In this way, the expertise of the financial institutions could be used, while the authorities' efforts could mainly be directed towards coordination activities, monitoring, results evaluation and realignment of economic development policies and strategies in line with other public financial resources (state budget/ state aid).

Financial institutions have extensive experience in granting commercial loans and their potential involvement in the absorption of EU funds may help increase the leverage effect on EU funds allocated to infrastructure projects. Besides, as a result of their increased involvement in the EU funds mechanism, public financial resources may be used more effectively to finance the specific priorities of public entities.

Environment and Sustainability

4.1 Positive Developments

The FIC appreciates the GOR's efforts to be proactive in discussions about new or revised EU norms it needs to transpose, to ensure that these will not have significant negative effects on the business sector in Romania and that Romanian companies will retain their international competitiveness (e.g. implementation of EU-ETS for 2013-2020, revision of carbon leakage list for 2015-2019, etc.).

The GOR has initiated public consultation procedures giving interested parties the possibility to express their opinions on various environmental issues.

A new draft of the amendments to the National Forestry Code has been published and all stakeholders have been given the opportunity to be involved in the consultation process and participate in constructive debates, to improve the initial version. The FIC considers that the resulting legislative framework, including new application norms, can represent the starting point for addressing the problems of this sector and for implementing best practices in forestry sustainable management. At the same time, the FIC welcomes the enforcement of the new Norms on the source, transportation and trading of wooden materials (wood traceability), to establish the obligations vesting with wood and wooden products traders (the so-called "Forestry Radar").

The GOR has continued the efforts made for proper waste management by adding a landfill tax to the existing legislative incentives. The effectiveness of this tax is however diminished by the delay approved by Parliament in its implementation date (i.e., until 2017). The FIC supports the incentive and considers that an earlier implementation date than that currently stipulated will be beneficial for Romania in achieving its European commitments and avoiding infringement proceedings with respect to European waste management norms.

The GOR has developed necessary procedures and put efforts into continuing supporting regional and local authorities to apply for and access EU funds (Regional Development European Fund and Cohesion Fund) to solve environmental problems, such as water and waste management.

4.2 Areas for Improvement

4.2.1 Environmental legal framework and institutional matters

During the last two years, the FIC has prepared over 10 position papers and comments to draft legislation in the environmental sector, as well as attending multiple meetings with the authorities in connection with the environmental topics raised in those documents. The actual authorities' feedback on these documents and meetings has been limited.

The FIC has some concerns about lack of legislative predictability and of feasibility assessments for implementing new norms and considers that any new environmental regulations and initiatives at both national and European level should be discussed in advance with the business sector representatives to allow the authorities to consider and integrate the business sector input when establishing the country position. There is a stringent need for consistency in terms of interpretation of the legislative provisions by all public authorities at central level and local level.

FIC Recommendations

Legislative predictability should be ensured and a uniform and consistent legislative framework should be created, based on EU principles.

Consultation with industry representatives should take place prior to the adoption of new environmental norms and regulations or prior to the amendment of existing ones. Likewise, the public consultation term should always be observed and increased in the future, also taking into consideration possible deadlines for transposing EU legislation.

In determining the need and priorities for legislative amendments, the authorities should consider the documented input provided by the business sector. In this context, the FIC deems that certain provisions of the authorization and re-authorization procedures might be subject to different interpretations, and this topic should be clarified as soon as possible. A uniform and consistent environmental practice at the level of all local competent authorities should be developed in order to avoid different approaches to the same issue. To this end, a potential solution would be the issuance of binding resolutions by the national authority which would regulate the approach to be taken by local subordinated authorities. A secondary legislative framework should be adopted to accommodate the new legislation with the existing framework (e.g., the Procedures for issuing the environmental authorization and integrated environmental authorization should have been revised from February 2014, following the enactment of Law No. 278/2013 on industrial emissions).

Cooperation between the relevant environmental protection and water management authorities should be increased to avoid bottlenecks or contradictions in regulation of various projects, as well as to ensure smooth implementation of projects which have a double dimension (e.g., soil and water remediation).

4.2.2 Climate change issues

The FIC appreciates the transparency demonstrated by the MEWF and by METT during the transposition and implementation of revised EU-ETS legislation on climate change, including the revision of the carbon leakage list for 2015-2019. The FIC hopes that the cooperation between the authorities and business sector will also continue for the full definition of the 2030 Energy and Climate Package.

FIC Recommendations

Continuous close cooperation is needed with the environmental authorities to implement and improve the existing national secondary EU-ETS legislation related to the procedure for issuing authorizations for greenhouse gas emissions for the period 2013-2020 and related reporting.

Active participation of the Romanian authorities in discussions held at European level and the involvement and consideration of business sector input in the positions to be taken by the Romanian authorities within the relevant technical/expert groups and public consultations at EU level are of utmost importance, especially in those relating to post-2020 carbon leakage provisions and EU-ETS reform.

The authorities should support full implementation of the energy efficiency norms, which would lead to a positive effect from environmental and climate change perspectives. Adequate planning for this, including for achieving various mandatory targets at EU level, would allow for the identification of the most cost effective solutions, including in the public sector.

4.2.3 Remediation of contaminated sites

The remediation of contaminated sites is currently governed by Ministry of Environment Order no. 756/ 1997 approving the Regulations on the evaluation of environmental pollution, by GD no. 1408/2007 on the methods of investigation and assessment of soil and subsoil contamination, by GD no. 1403/2007 on the remediation of the areas where soil, subsoil and terrestrial ecosystems have been affected and by GD no. 53/2009 on the approval of the National Plan on the protection of groundwater against pollution and deterioration.

FIC Recommendations

A correlated methodology for applying these regulations is needed to ensure transparency, predictability (in terms of timing, actions required, etc.) and to avoid misinterpretations of or contradictions in them. Detailing the framework for contaminated sites may also ensure a better clarification of potential liabilities for private companies operating on historically contaminated sites, as well as the possibility for such private companies to access state aid or EU funds for decontamination works.

A secondary legislative framework should be adopted to allow a proper implementation of environmental general principles (e.g., a Technical Guide regarding methodology, evaluation criteria and content of the geological report for investigation and evaluation of soil and sub-soil should have been adopted since 2008).

A secondary legislative framework is needed to facilitate access to EU funds for environmental decontamination works. The preparation of the National Strategy and the National Action Plan for Managing Romanian Contaminated Sites is an ex-ante condition imposed by the European Commission on Romania to co-finance contamination sites remediation projects from EU funds within the 2014-2020 program. Consequently, approving and publishing a national list of contaminated sites is a mandatory milestone in the process of accessing European funds. This list should be completed and published as soon as possible.

4.2.4 Waste management

The Waste Management Framework Directive was transposed into Romanian legislation through Law no. 211/2011 on waste, as further amended. In December 2013 the Government published the National Strategy for Waste Management during the 2014 - 2020 period (approved via GD no. 870/2013). The waste management framework is characterized by a large number of enactments regulating waste management generally or setting forth rules on specific types of waste.

FIC Recommendations

The FIC recommends that the authorities should give particular attention to:

- Achieving a balance between local authorities' and industries' responsibilities, as well as transparency and clarity with respect to obligations vested with operators performing similar activities. The local authorities should also be made accountable for the selective collection of post consumption waste (e.g., packages, electric and electronic equipment waste), as this legal obligation lies with them.
- Clarifying whether the GOR intends to adopt a decision setting forth a special regime for additional specific types of waste (aside from the decisions already in place). The GOR should also clarify whether it intends to set out rules on how waste management costs are to be allocated based on the "polluter pays" principle, including in the context of preparing and adopting a National Waste Management Plan in line with the new National Strategy for Waste Management.
- Clarifying the by-products concept and the cessation of waste status versus recovery in waste reporting.
- Clarifying the waste treatment reporting obligation for treatment operations that represent both recycling and energy recovery (e.g., waste co-processing in cement plants).
- Better implementation of the EC recommendations in support of various waste-related directives (e.g., recognition at national level of co-processing in cement plants as simultaneous mineral recycling and energy recovery, as well as best practice for resource efficiency).
- Clarifying the legal framework to support domestic waste transportation collected from multiple sources in one transport.
- Setting a methodology for waste flow registration (traceability) from the generation/collection place to the storage, transport, treatment and final recycling/recovery/disposal, and related reporting.
- Upgrading existing databases, as the least costly solution, to allow online integration and correlation of all reporting obligations with adequate security features (including to ensure confidentiality), which should allow the generation of all reports required by the waste management regulations and the traceability of waste flows. The FIC offers its support for the design, testing and operation phases of this database.

4.2.4.1 Packaging and Packaging Waste (PPW)

Romania has so far complied with its EU obligations on PPW, primarily due to the continuous efforts made by industry to achieve the stringent packaging waste recovery and recycling targets. It is to be expected that these efforts will continue in future.

FIC Recommendations

Specific requirements for the traceability of waste (including various types of materials coming from waste) should be regulated and upgraded and reporting procedures correlated at national level to secure accurate data submissions with the European Environment Agency, reduce free riders, and create the premises for a level playing field for all responsible economic operators.

The deposit system should be avoided as it leads to parallel collection systems at municipality level and to unnecessary multiplication of costs. It undermines the GOR's ongoing efforts focused on implementing separate collection at national level as Romania's strategic option, which benefits from substantial EU funding (i.e., EUR 1.17 billion – Axis 2 Waste Management, SOP Environment). Taking into consideration Romania's economic capacity, the implementation of a deposit system puts an additional disproportionate burden on the shoulders of industry (fillers and importers).

4.2.4.2 National Sewage Sludge Strategy

The FIC appreciates the Ministry of Environment approach to establishing a national strategy for this specific waste stream. Currently most waste water treatment facilities are planned to be fitted with dehydrating facilities to reduce the water content in the resulting sludge (from 96-98% to 70-85%).

FIC Recommendations

Further reduction of the amount of sewage sludge to be treated, by setting up of drying facilities as close as possible to generating sources should be included in this strategy as one of the main targets. This would allow for lower logistics costs, as well as increased treatment alternatives including recovery of this sludge by co-processing in cement plants (simultaneous mineral recycling and energy recovery).

To make the use of sewage sludge more attractive for farmers, the authorities should review and simplify the authorization procedures by appointing a single issuing body and/or requesting the authorization from one side only (either the producer or the farmer) and by drafting a "Best Practices" Guide, in cooperation with FIC members, for the management of sewage sludge.

4.2.4.3 Waste Electrical and Electronic Equipment (WEEE)

GD no. 1037/2010 on WEEE fails to address the concerns expressed by industry, or to integrate its proposals to remedy the problems:

- The responsibility to reach the WEEE collection targets has been totally transferred to producers, under the threat of the suspension of their activity, even though, according to the same GD, WEEE collection from households should be carried out by local authorities.
- There are no measures stated in the GD to require the other actors from the so called "parallel flows" to register and report the quantities of WEEE collected and treated.
- There are no penalties set out for illegal WEEE collection and treatment. Only those operators which have environmental permits for collection and treatment of WEEE can be fined for breaching the provisions of the GD. Non-authorized collectors are not mentioned so they are subject only to the provisions of the general legislation, which sets much lower penalties.
- Despite the provisions of the EU Directive and the EU Commission's opinion, the GD still maintains the provision that the guarantee for "orphan new waste" will be managed by the Environmental Fund Administration.

Moreover, the new directive on this subject, Directive 2012/19/EU, has yet to be transposed in Romania, despite the transposition deadline having elapsed on 14 February 2014. The transposition process, initiated on January 2014, lacks transparency and so far has been carried out without a thorough consultation with stakeholders, disregarding the provisions of Law no. 52/2003 on decisional transparency in public administration. The drafts for transposition (at least three versions have been circulated) do not address the flaws of the existing GD no. 1037/2010 (in fact, these are made more acute), while they also add new points of potential infringement, such as the de facto prohibition of WEEE collection for producers and their collective schemes.

The FIC has been actively involved in the implementation process by submitting comments and attending meetings with the Ministry of Environment representatives, but without receiving any feedback on its input or being able to verify whether the submitted comments have been analysed and implemented by the authority.

FIC Recommendations

The transposition of the new Directive 2012/19/EU should be completed as soon as possible in order to avoid the risk of infringement procedures being instigated against Romania. At the same time, the final transposition draft should address the flaws mentioned above, as well as consider the following reforms:

- Imposition of clear responsibility on the authorities for the achievement of the WEEE collection targets (collection objectives for local authorities and strong enforcement to combat illegal “parallel” flows).
- Imposition of clear responsibilities on each actor that handles WEEE depending on its role.
- Cancellation of the current legal provisions which make producers responsible for the result of an activity (collection of WEEE from households) which should be performed by local authorities.
- Requirement that all actors that handle WEEE should register and report. High penalties should be imposed for illegal collection and treatment and measures to support effective enforcement of such penalties should be put in place.
- Establishment of an entity for coordinating, monitoring and compensating the obligations of WEEE producers and local authorities (clearing house).
- Eliminating the involvement of the Environmental Fund Administration (AFM) in the management of guarantees. The management should instead be carried out by the authorities with a role in the implementation of WEEE legislation.
- Setting of the right of WEEE producers and/or their collective organizations to organize and operate their own collection facilities, if they choose to do so.
- Consultation with the industry before adoption of any WEEE norms, as well as before the final approval of the enactment transposing the WEEE Directive 2012/19/EU.

Additional elements that should be put in place when the new Directive 2012/19/EU is transposed into Romanian legislation are:

- Introduction of obligations proportional with their responsibilities for all parties which collect and treat WEEE. These obligations should include following the minimum treatment requirements, achieving the recovery and recycling targets included in the Directive and reporting the results to the authorities.
- Regulation of the possibility to use a visible fee.

4.2.5 Funds for environmental projects

4.2.5.1 EU Funds

Under the 2014-2020 programming period, the Large Infrastructure OP will be the most important program providing EC financial support to environmental projects.

Regional Operators will continue to receive European Funds to extend the drinking water networks and wastewater treatment facilities according to the investments included and prioritised in the Master Plans. The development of waste infrastructure will also continue to be financed in the future programming period enabling Romania to comply with the Landfill Directive, to promote a more efficient use of resources and to increase the waste recycling ratio.

Protection of biodiversity will also be given priority under the Large Infrastructure OP. Investments will be targeted for the protection and restoration of the most valuable ecosystems and endangered animal species. Measures will be undertaken as part of the Large Infrastructure OP to set up and improve risk monitoring and prevention systems, to enhance the professional emergency response services and to reduce risks and damage from flooding, drought and coastal erosion.

The Large Infrastructure OP will also provide support for the development of the National Air Quality Assessment and for rehabilitation of contaminated sites, including preparation for their economic re-use.

FIC Recommendations

The business sector should be invited to participate in working groups of relevant authorities to define and improve application rules and procedures, as well as the applicant’s guidelines for the environmental projects to be financed under the upcoming programming period.

Selection of the environmental projects and activities related to management verifications (administrative verifications during project implementation, on-the-spot verifications during and after project implementation) should be entirely outsourced to the business sector (Framework Contracts).

A secondary legislative framework is needed to facilitate access to European funds for remediation of historically contaminated sites (i.e., enactment of a coherent National Strategy and a National Action Plan for Managing Romanian Contaminated Sites, in line with the existing legislation, and approval and publication of a national list of contaminated sites mentioned in GD no. 1408/2007).

4.2.5.2 Environmental Fund allocations

The Environmental Fund was set up as an economic-financial instrument and designated to co-finance various environmental projects. The Fund's incomes come mainly from environmental taxes the industry sector pays for various activities (e.g., air emissions coming from fixed sources, metallic and non-metallic waste recovery; packaging, tyres and electric and electronic equipment waste recovery and recycling, etc.).

The FIC welcomes the AFMs achievements on financial support for environmental projects. However, the FIC has noticed that during the last few years, most projects financed through the Fund were mainly related to the fleet renewal scheme (old cars scrapping scheme), heating systems in houses, renewable energy and some water and forests projects for local authorities. Private companies did not have the opportunity to apply for financing to support their environmental projects and needs.

Theoretically, the AFM should organize periodic rounds for selection of proposed environmental projects related to various environmental issues (e.g., pollution prevention, reduction of impact on air, water and soil, use of clean technology, waste management, etc.) and any company (private and state owned) should be able to apply to obtain funds from the AFM.

As many companies contribute to the Fund and most of the Fund's income comes from industry, the FIC is concerned about the limited access which industry has to this Fund.

FIC Recommendation

The AFM should take into account a range of subjects when developing its annual working plan and priorities, so that industry may also apply for funds to finance its environmental projects. The related financing guides should set eligibility criteria that are accessible for companies.

The FIC considers that an early implementation of the existing landfill tax will provide an incentive for proper waste management that will significantly support Romania in achieving its commitments, especially provided the resulting income will be used only for co-/financing projects (investment and operation) needed for developing the waste management infrastructure.

The Environmental Fund legislation should be updated to ensure correlation with waste management legislation, to avoid contradictions in norms or interpretation thereof, with an immediate financial and operational impact on the business sector.

4.2.6 Regulatory & Tax incentives

The FIC recommends the incorporation of more incentives into Romanian legislation to promote environmentally friendly behaviour by companies and individuals.

FIC Recommendation

"Green" incentives should include and promote: brownfield redevelopment, energy saving buildings and building improvements, reduced VAT for environmentally friendly products, tax exemption for bicycles used for travelling to work and the promotion of electrical and electronic equipment which is energetically efficient.

4.2.7 Sustainability and Corporate Social Responsibility

Sustainability involves economic development which respects long term environmental and social well-being and Corporate Social Responsibility (CSR) and is a way in which companies can develop sustainably and support the wider community.

There have been several positive initiatives in Romania in relation to CSR: (i) the National Strategy on Social Responsibility Promotion 2011 – 2016, which focused on the three directions (social, environmental protection and education and research), and (ii) the National Sustainable Development Strategy (NSDS) of Romania for 2013-2020-2030.

However, limited data on the implementation progress of the above mentioned strategies is publicly available. Cooperation between authorities, the business environment and other stakeholders is necessary for the successful implementation of both Sustainable Development and CSR strategies, as well as for the development of the National Action Plan on CSR.

The FIC members are investing in building stakeholder trust while also improving their business performance and enabling opportunities for long term value creation. Currently, a limited number of companies in Romania (i.e., only listed ones) are required to report some non-financial information, but voluntary rules and guidelines (e.g., Global Reporting Initiative) are considered by organisations (most of them multinationals) when disclosing their sustainability performance.
Meanwhile, Directive 2014/95/EU amending Directive 2013/34/EU on disclosure of non-financial information by certain large undertakings and groups introduces mandatory non-financial reporting requirements for certain types of companies (e.g., public interest entities with over 500 employees) starting from April 2017, the first reporting year on the data related to the 2016 financial year. This Directive is due to be transposed by October 2016 at the latest. Companies covered by this Directive will be able to disclose their non-financial information in line with whichever international, European or national guidelines they deem appropriate.

FIC Recommendations

Early consultation with industry representatives should take place during the transposition process of Directive 2014/95/EU and development of a national reporting Guideline.

Promotion of transparency in relation to the application of social, ethical and environmental standards by the business community, as well as public institutions. The use of internationally recognized reporting standards/guidelines (e.g., GRI, IIRC Framework, UNGC) should be encouraged, as well as external verification of the reported information.

Promotion of a legislative requirement on limited sustainability/CSR reporting by all large companies operating in Romania.

Involvement of companies (as main stakeholders) in the implementation process and technical inter-ministerial working groups aimed at further developing the NCSR and NSD strategies, as well as of the National Action Plan on CSR.

Drafting of a "Stakeholder Engagement Plan/Dialogue" guideline to be applied by companies/authorities, according to their type of activity.

Ensuring of a permanent dialogue between the public authorities and the industry on how best to give incentives for responsible business conduct, as well as on specific sustainable development issues.

Development and implementation of a continuous program on increasing awareness among public authorities, industry, NGOs, etc. in relation to sustainable development, as well as CSR.

Management of Public Institutions

5.1 Positive Developments

Improving the management of public institutions has always been one of the FIC's primary goals. The smooth functioning of institutions such as Parliament, Government, various state agencies as well as state-owned enterprises (SOEs) - performing key activities in the economy - provides the necessary framework for the healthy development of the business environment. Quality public services such as national security, public order, justice, healthcare, education, utilities and infrastructure is one of the main prerequisites for a competitive economy.

Over the last two years, a number of positive developments have been recorded in this area. The legislative framework on transparency in issuing new legislation has been further improved and it appears now also to be better implemented, as the consultation process between the authorities and private stakeholders is more systematic and better structured. GD no. 88/2013 established the framework for prioritizing public investments. The Government took a step towards better monitoring of budgets of public entities and set up a Delivery Unit to ensure implementation of its commitments in four areas; fiscal administration, public procurement, energy and youth employment. While implementation of GEO no. 109/2011 concerning professional management of SOEs has remained hesitant, the financial results of some of the companies which have applied the provisions of the GEO have been improving. Some progress has been recorded in advancing legislation on covered bonds. It also appears that the justice system is much more successful in tackling corruption, as witnessed by the substantial increase in the number of high-profile cases either prosecuted or for which final convictions have been secured over the last two years.

5.2 Areas for Improvement

5.2.1 Prioritisation of public investments

Since the publication of the previous White Book, the Government has passed GEO no. 88/2013 which set up the framework for prioritizing public investments. It seems that its provisions were taken into consideration when drafting the budget for 2014. This was expected to result in a concentration of the limited resources available towards high importance projects and a much higher rate of completion of projects. Unfortunately, there was instead a significant decline in the total volume of public investments, by about 0.3% of GDP compared to 2013, with, for instance, only about 50 km of new motorways being opened to traffic in 2014, some of which did not even meet adequate quality standards. This occurred in a year in which fuel excises were significantly increased specifically to provide additional resources for investments in infrastructure, and large amounts were available in EU grants but not used.

FIC Recommendation

While it appears that there is no direct connection between the poor performance in public investments in 2014 and the attempt to prioritise them, the Government should analyse what happened last year and draw the necessary lessons. In the light of those lessons, **the prioritisation process**

should be further refined and clear responsibilities should be assigned to those in charge of the implementation of the investment program once it has been established. This process has become even more urgent as progress on the motorway building program appears to have slowed even further, with only 10 more kilometres expected to be inaugurated in 2015.

5.2.2 Changing the structure of public wages

Since May 2013, the date of the publication of the previous White Book, there has been little progress if any in this area. Salaries for some categories of public staff – most notably in education and healthcare – have been marginally increased, but the fundamental issue of properly rewarding responsibilities and skills has not been addressed. People holding key positions in public institutions – including the President of the country, the Prime Minister and Ministers - still earn salaries lower than many middle-managers in multinationals or even in some SOEs, which creates the perception that such positions are coveted based on adverse selection and for the wrong reasons. Other people with valuable and expensively-acquired skills, such as doctors, have such low wages that many prefer to emigrate. The longer such situations persist, the higher the price Romania pays, as talented and honest people prefer to avoid public service and consequently key activities are either not properly performed, or are performed at much higher costs.

FIC Recommendation

The average salary in the public sector is not the main problem. According to official statistics, the average wage in public administration (defence and similar sectors not included) is higher than the national average wage. The issue is how to better distribute the total payroll fund to individuals working for state institutions, without increasing it, by rewarding performance and responsibility. To do this, the authorities should draw from international experience, for instance by using the expertise of highly-respected International Financial Institutions, such as the World Bank.

5.2.3 Improving the monitoring capabilities of the Government

Some progress has been recorded over the last two years. In 2013, GEO no. 88 was passed, which among other provisions stipulates the setting-up of a system for checking, monitoring, reporting and control of the financial statements, legal commitments and budgets of public entities. In 2014, a Delivery Unit was created within the Prime Minister's Office, with the purpose of monitoring and delivering results in four areas; fiscal administration, public procurement, energy and youth employment.

FIC Recommendations

While we welcome the progress made in these areas, we believe much remains to be done on other issues. The authorities still appear not to have a proper monitoring system for the implementation of contracts involving public institutions, as demonstrated by the huge delays in delivering motorways on time. Some commitments assumed in connection with international organisations seem to fall below the authorities' radar, as demonstrated by the attempts to pass a law on the insolvency of individuals, just months after the IMF Agreement prohibiting this was itself ratified by a law. Provisions of some "soft" laws – i.e., those which do not provide penalties in the case of non-observance – are not complied with or at least not properly complied with, as we have noticed in the case of Law no. 52/2003 as amended by Law no. 281/2013 concerning transparency in decision making in public administration, or in the case of GD no. 109/2011 concerning the management of SOEs. Consequently, we believe that the Government should improve its monitoring processes, either by expanding the capacity of the Delivery Unit and cascading its activity to lower-level entities (such as ministries and public agencies) or by setting up other suitable monitoring vehicles.

5.2.4 The transparency, predictability and stability of the legislative process

Transparency – new legislation should be the result of a comprehensive consultation with relevant stakeholders, accessible to all and easy to understand.
Predictability – any change in legislation should take place in the context of a long-term strategic framework and allow sufficient time for stakeholders to adapt to, and implement new rules.
Stability – the state's rationale for new legislation must be coherent, institutionally consistent and free from arbitrary or retroactive amendments.

The passing of new legislation without proper public consultation with relevant stakeholders, as well as frequent changes in legislation are making the Romanian investment climate more uncertain and risky, and less competitive. Investors which must constantly adapt or acquire expertise to cope with the changes incur additional costs and require higher potential returns to initiate new investment projects. There have been many examples of stakeholders not being allowed an active role in the legislative process or of their efforts to improve legislation before it was issued being ignored.

To improve the regulatory framework in this area, steps were taken by amending Law no. 52/2003 on decisional transparency in public administration. The amendments to Law no. 52/2003, mainly consisting of stronger consultation requirements, were finally approved at the end of 2013 by Law no. 281/2013, but the provisions are not uniformly applied.

Currently there are situations in which two or more regulations have conflicting provisions, which raises many difficulties for the business environment, leading to diverging interpretations, and consequently to delayed or cancelled investment projects in many cases.

An additional source of difficulties in the uniform application of the law relates to the quality and stability of the legal framework. Lawmaking is still dominated by Emergency Ordinances - which usually fail to respect a minimum level of transparency and often give no space for proper assessment, preparation and consultation – though they have slightly decreased in numbers in 2014 as compared to 2013.

FIC Recommendation

Any new regulation should respect the three principles outlined above and should be accompanied by an impact assessment which takes into consideration the ways in which businesses, consumers or other laws and regulations will be affected by the new legislation. GEOs should only be used in cases of real urgency, and this urgency should be properly explained.

5.2.5 Clear separation between different roles of the state

There should be a clear regulatory separation between the roles of the state as policy maker and shareholder of SOEs. The overlapping of the two functions leads to inconsistent management of SOEs, which are often arbitrarily governed, making them less competitive and more unpredictable for their business partners. A coherent and transparent separation between the state’s roles as shareholder and as law maker would encourage investors to develop businesses in Romania and also ensure the conditions for the appointment of professional management in SOEs, leading to the development of a functional market. This regulatory separation should be reinforced by a full administrative separation, with the state’s role as shareholder in SOEs being transferred to one or more legally separate entities within the Government, which would be independent of the various ministries. The state should clearly define its behaviour in each of its capacities and disclose promptly any conflict of interest.

FIC Recommendations

Separation between the state’s role as shareholder and as lawmaker should be formalised. The state’s role as policy maker should be to enact rules and regulations governing various sectors of the economy, while the state’s role as majority shareholder in SOEs should be to maximize those companies’ value for shareholders. Between the two roles, conflicts often arise because both roles are exercised by the same Government entities, usually ministries.

To manage these situations, corporate governance rules should be defined and implemented along the following lines: (i) SOEs should not be managed differently in any way from private companies, and general laws and regulations should be fully applied. (ii) Any regulations applied exclusively to SOEs should observe the transparency principles outlined above. (iii) Any regulations which affect SOEs should not grant them competitive advantages in competition with private entities on the free market. (iv) The state should diligently exercise its role as shareholder but refrain from becoming involved in the day to day management of SOEs. (v) Any obligations and responsibilities outside the generally accepted practices that SOEs are required to undertake should be clearly mandated by laws complying with the above recommendations. (vi)The state should disclose the ownership rules, meaning the overall objectives of the state ownership and its specific role in the corporate governance of the SOE. (vii)The ownership rights should be clearly delineated within the state’s administrative responsibilities as mentioned in the corporate governance recommendation.

For example, a very specific application of this principle could be achieved by the creation of a sovereign wealth fund which would take over the participations of the state in SOEs. The purpose of this fund should be to increase the value of the investments entrusted to it. The fund should be as independent as possible from political influence and it should operate in close connection with the business environment. Its main purpose should be to generate value for the state.

5.2.6 Corporate governance in SOEs

The implementation of the corporate governance ordinance in SOEs (GEO no. 109/2011) has generated beneficial effects, both financially and in terms of transparency for the companies which apply these provisions. There are still a large number of companies which either have not initiated the implementation of the provisions of the ordinance, or have not yet finalised the selection process for professional management. In some cases, the candidates for the board recommended by independent consultants and ultimately appointed were still politically affiliated or had no relevant professional experience.

There are cases when board members were appointed based on recommendations from independent human resources companies but were soon dismissed due to rejection of the administration plan, without proper justification.

The setting up of an inter-ministerial committee at government level whose role is to supervise the implementation of the GD is a step in the right direction but any tangible results of the work of this committee have yet to be seen.

FIC Recommendations

The more the implementation process is delayed, the more chronic inefficiencies will affect SOEs. Likewise, a single public authority should be appointed to oversee the enforcement of the GD in all SOEs. This would streamline the process and would be a new sign of the government's commitment to reform.

The inclusion of a requirement for SOEs to implement the GD's provisions within a set period and to specify time limits on appointments of independent boards and general managers would be highly beneficial.

The GD is currently going through the parliamentary process of approval and we recommend that the Romanian Parliament should take into consideration and include in the law the feedback received from private stakeholders.

5.2.7 Capital markets

The listing procedures for SOEs initiated by the GOR in the last few years and supported by International Financial Institutions (IMF, World Bank) have had a positive effect on the Romanian capital market. Further listings and secondary offerings will contribute significantly to the local capital market's chances of being reclassified from frontier to emerging market status.

FIC Recommendations

The listing procedures should be formalised in a multi-year strategy approved by the Government, where companies up for listing are named, with clear timelines and expected listing dates set for each of them. In order for the transactions to have high chances of success, stakes to be listed should be at least 20% of the total shares issued by those companies.

Organisation of all Initial Public Offerings (IPOs) and privatisations should be centralised under one government entity, which should help ensure the highest market standards for each transaction.

Higher transparency requirements and a diversified base of shareholders for listed companies should help SOEs improve their financial performance and generate attractive returns for the state as well as new investors including Romanian retail investors and pension funds. The growth of the capital market should also allow SOEs and private companies to raise the necessary funding for investment projects, and this should lead to an acceleration in GDP growth.

In the medium term, the Government's efforts to bring these companies to the market should lead to an upgrade of Romania's capital market to emerging market status, which would encourage more foreign capital inflows into the Romanian economy. There are several suitable IPO candidates: Hidroelectrica, CE Oltenia, Telekom, Bucharest Airports, Tarom, CFR, Salrom, Constanta Port, CEC Bank.

Fiscal stimulants should be offered to encourage both medium and long term investment in Romanian state companies, as this would enhance the growth of the Romanian economy.

5.2.8 Enhancement of the legal framework for listed companies under financial recovery procedures

Recent practice in relation to listed companies that are facing financial difficulties and are subject to a procedure regulated by Law no. 85/2014 on insolvency prevention and insolvency procedures indicate certain inconsistencies or gaps in the applicable legal framework. For a listed company that is undergoing a financial recovery procedure, such as special administration or reorganisation, the general publicity and approval requirements applicable under the capital market law might prevent quick turnaround measures such as a share capital increase or a change in control. Law no. 85/2014 includes only very limited exceptions to the general requirements, and where such exceptions are provided, the issue of minority shareholders and protection of ownership rights remains unclear. Moreover, the delisting procedure is cumbersome and lengthy, even though a quick de-listing might be an appropriate step for a company facing financial difficulties.

FIC Recommendation

The FIC recommend enhancement of the legal framework applicable to listed companies in financial recovery procedures to provide for additional derogations from the general capital market rules, where practice indicates that such rules are slowing the financial recovery process. At the same time, the legal framework should ensure that adequate protection is provided to shareholders, including minority shareholders. Changes to the legislative framework should be based on consultations with listed companies in such situations, as well as with lawyers, insolvency practitioners, capital markets intermediaries and other parties involved in the process.

5.2.9 Implementation of a legal framework to allow and stimulate the development of covered/corporate bonds

Currently Law no. 32/2006 regulates the issuance of mortgage bonds only, but no issuance has yet been made because the law is not aligned with international standards. The Romanian Banking Association (ARB) has suggested amendments to Law no. 32/2006 to align it with international standards. This would allow the development of the capital market and allow banks to diversify their funding sources with positive effects on credits granted to legal entities and private individuals.

In April 2014 the MF released for public debate a new draft Covered Bond Law. However, the new draft enactment has yet to be put on Parliament's agenda. This would bring significant benefits for the economy. Currently, banks face discrepancies between the maturities of loans granted and of the resources attracted as deposits (1-3 months), which limit their potential to grant loans, especially long term ones and especially loans in RON. The issuance of covered bonds would allow banks to diversify their financing sources by using the existing loan portfolio, and, based on clear eligibility criteria, these covered bonds could be accepted as guarantees at the NBR (as happens in other EU member countries). The development of the covered bonds market would also make an important contribution to the development of the local capital market as a whole.

FIC Recommendation

The legislative process needs to be prompt and the implementation of the new legal framework should be accelerated to allow and stimulate the development of covered/corporate bonds.

Energy

6.1 Positive Developments

Several positive developments have taken place in Romania's energy sector in the past two years.

Some progress has been made in terms of developing a modern legislative and regulatory framework, following transposition into national law of the EU's third energy package for gas and electricity markets. Greater autonomy for the regulator and the allocation of more resources to it were also important steps forward. Furthermore, the transposition of the Energy Efficiency Directive represented an important first step towards development and implementation of measures needed to support increased energy efficiency in all sectors of the economy. Romania also started the implementation of the deregulation timetable for electricity and gas prices following the agreements concluded with the IMF, the EC and the World Bank.

In the oil and gas sector, operators pursued significant exploration and production investment programs that resulted in the identification of potential new reserves in the Black Sea and onshore, as well as successfully offset the decline of production from mature onshore fields. In the electricity production sector, Romania has succeeded in attracting significant investments in renewable energy, leading to an increase of installed capacity from about 24 MW in 2009 to around 4,155 MW in 2014. Some smaller investments, still insignificant compared to needs, have been attracted in Combined Heat and Power (CHP) and in other conventional thermal generation (mainly in environmental compliance).

Finally, the success of IPOs of some SOEs (Romgaz, Electrica and Nuclearelectrica) has paved the way for more initiatives to attract much needed private capital into the energy sector.
However, a series of outstanding unsolved issues has hindered the growth of the energy sector and has decreased its attractiveness to investors in a context where the need for investments is massive both in the short and long term (several tens of billions of Euros). Consequently, it is of utmost importance for the authorities to give a clear signal to the market with a well thought-through and stable energy strategy as well as to propose a roadmap with clear milestones to implement it.

6.2 Areas for Improvement

6.2.1 Liberalisation

Liberalisation and respect for free market principles are the key to attracting investors and ensuring that Romania's economy continues to grow and remains competitive.

While the Romanian energy market has seen some progress towards liberalisation, market development and liquidity continue to be undermined by several issues.

In the gas market, the deregulation of prices for non-household customers became effective in January 2015. However, the government's decision to delay price deregulation for the residential sector for a further 2 ½ years may damage investors' confidence in the predictability of the market's legislative framework. The delay in gas price liberalisation for household consumers does not solve the issue of gas affordability, but merely postpones the implementation of long term sustainable solutions such as direct financial support for clearly defined vulnerable consumers and improvements in energy efficiency.

The way in which price deregulation and liberalisation is implemented is crucially important. In order to extract the full value of price deregulation and market liberalisation for investors and for consumers, the wholesale market that is today at a very early stage of development must be significantly improved. This means that domestic gas should be distributed to the wholesale market and that the wholesale centralised platforms should be liquid in terms of volumes and flexible in terms of instruments (combination of long, medium and short-term contracts). Besides the lack of a functioning wholesale market, the absence of effective market tools (notably a modern network code, metering and balancing regime) and the absence of any meaningful progress to link Romania's gas market with others in the EU and the region also represent significant barriers to the development of a functioning, competitive market that would attract more investors. The authorities must also implement adequate measures to ensure that the market remains competitive and that the costs associated with security of supply are fairly distributed among suppliers and customers.

In the electricity market, liquidity has improved as a result of higher outputs committed by state-owned producers to Opcom's trading platforms and due to the entry of private companies into the generation sector. However, there is still a need to further expand the types of available instruments and contracts (including derivatives) that can be used to improve flexibility and to address existing operational difficulties for electricity suppliers and generators (in particular from the renewable energy sector and industrial cogeneration facilities), while maintaining transparency.

Finally, implementation of a cost-effective scheme to mitigate the effects of higher energy prices on consumers that can least afford them remains impossible as long as no progress is made on a definition of vulnerable consumers. To address consumer protection through regulated prices is inefficient, detrimental to the security of supply and an impediment to any energy efficiency measures. It could therefore have negative long-term consequences for Romania's economy.

FIC Recommendations

While the need for a transition phase is understandable and necessary, the GOR should restore the confidence of private investors in a credible transition process designed to achieve full market liberalisation. This means that the pace of gradual moves towards complete price deregulation needs to be maintained. It also means that the GOR and the regulator should focus on the immediate implementation of market instruments and conditions to ensure that, well in advance of the deregulation deadline, the wholesale market is functioning well, and has adequate liquidity and instruments to guarantee the secure supply of all customers as well as to support the formation of an objective and transparent market value for gas and electricity. These measures should include:

- Ensuring that centralised platforms for electricity and gas have adequate liquidity to guarantee continued supply to final customers, regardless of their size and sector of activity, through development/diversification of standardised products (including derivatives), such as the products typically traded on North-West European hubs and exchanges, while maintaining full price transparency.
- Establishment of virtual trading points.
- Enabling sellers and buyers to trade in a flexible manner using a variety of methods that best suit their needs.
- Arriving at a clear definition and identification of vulnerable consumers, to mitigate the impact of energy price deregulation on those at risk of falling into fuel poverty, through the development and implementation of targeted state protection or support schemes.

All measures described above should be adopted and implemented in a coordinated manner, through regular consultation with all stakeholders, and adoption of a roadmap to be followed and regularly monitored.

6.2.2 Regulation and investments in energy infrastructure

The modernisation of the energy production, transmission and distribution infrastructure is crucial to increase the efficiency of the system and ensure security of supply for consumers. The conventional power generation capacity needs to be refreshed as soon as possible to avoid potential blackouts in the medium term. The program for retirement of obsolete capacities should be transparent, to allow investors to assess the opportunities for private investment in conventional power generation in Romania. Serious restructuring and downsizing is necessary for power generators using uncompetitive technologies, as a better method for stimulating the economy, rather than price subsidies for social reasons which perpetuate competition distortions. In oil and gas production, significant additional investments are needed to maintain the current level of production from the existing wells, and potentially, to develop new hydrocarbon resources in the Black Sea. In the gas and electricity networks, significant further investments by private and state-owned distribution and transmission companies need to be carried out to increase the reliability of networks which have been, in some cases, neglected for decades. Romania has significant gas storage potential but investments are needed to increase the flexibility of the storage facilities to cope with the fluctuation of demand in the winter season. While several energy projects are in progress (most in early stages of development) and there are significant planned investments in transmission and distribution networks, there are numerous visible obstacles on their path to fruition.

Attracting investments from existing or new investors requires sound and intelligent privatisation methods, including direct sales with strategic investors, and regulation if projects are to become successful. Energy projects have very long life cycles, often spanning several decades, and require large upfront investments. The frequent and often rushed changes in regulation, with little or no meaningful consultation of stakeholders, create a volatile environment which may hinder long term commitments from private investors.

FIC Recommendations

Investments in new production capacities to replace some obsolete or mature assets and modernising transmission and distribution networks for all types of energy should be a priority for Romania and the authorities should bear it in mind when issuing and modifying regulations that could affect the trust of investors in the Romanian legislative framework.

Romania needs to create the correct incentives to encourage private investors to allocate resources to the development of energy infrastructure. We recommend continuing IPOs in the energy sector which promote transparency and corporate governance standards and which attract investments. Having balanced and responsible regulatory institutions to strengthen measured and predictable Government policies is the best way to ensure this process is effective. State institutions also need to support gas and electricity network operators in their efforts to finance network rehabilitation and development projects and to attract European funds available for projects meant to improve regional security of supply through energy market integration.

The regulatory authorities need to become champions of good-faith, as well as of reliable and investment-attracting regulation. They should be a source of guidance for investors and a coordinator of all market participants.

Regulatory commitments should be trustworthy, while transparency between the regulator and operators needs to be consolidated, all in the interest of unlocking the potential of the energy market. Innovative and modern regulatory methodologies need to be adopted where possible, as international best practice models become available for large investment projects such as financing schemes for capital intensive generation or efficiency and quality incentives in transmission and distribution networks.

6.2.3 Renewable Energy

The renewable energy sector developed in Romania as a result of the country's potential in wind, hydro, biomass and solar energy and of the RES support scheme defined in 2012. Thus, significant investments were carried out, worth 6 billion EUR, notably in the wind and solar power sectors. Due to these developments, Romania is, on the one hand, benefiting from significant electricity generation with low marginal costs and, on the other hand, is on the way to meeting its obligations set out in the 2020 targets for renewable energy.

The approval of Law no. 220-139 by Parliament in 2012 has been welcomed by the energy sector as a very positive sign of support from the state authorities for the development of the renewable energy sector. However, the significant amendments made to the long-awaited support mechanism only a few months after its adoption sent a negative signal to the market. While the intervention of the Romanian authorities to modify the RES support mechanism was welcome from the point of view of controlling the development of capacities and of overcompensation of certain technologies, the modification of the scheme without a well thought-through impact assessment has badly affected the assets already in operation. In particular, the downward revision of the RES quota led to a significant excess of green certificate supply in the market and to a sudden decrease of the green certificate price to the lowest value defined by the law. Consequently, a significant share of green certificates may remain unsold for years to come and may expose renewable energy producers to insolvency or bankruptcy.

FIC Recommendations

Investments in the energy sector need reliable and stable legislation which allows investors to predict long term profits. While investors understand that the support mechanism must be affordable to consumers, they also expect that investments already made should be protected against retroactive legislative changes. Consequently, positive signals should be given by the Romanian authorities to investors in renewable energy, so that the value of their past investments is protected. In the short term, an increase of the RES annual quota is required, in order not to harm existing capacities while maintaining the final consumer's bill at a reasonable level. In the medium term, development towards a new support mechanism is necessary to correct the deficiencies of the green certificate market and restore the trust of renewable energy producers in Romanian government policies.

6.2.4 Integration into the European Market

Integration into a well-functioning, interconnected and competitive European internal energy market is a pre-requisite to achieve the goals of sustainability, competitiveness and security of energy supply, in the most cost-effective way. Romania should capitalise on its strategic position in the SEE region and proactively develop its import and export potential. Effective and accelerated integration into the European market would increase the security of supply and would also generate higher revenues for the state budget by increasing the competitiveness of the Romanian energy sector.

FIC Recommendations

Electricity transmission connections and the capacities of the system to supply surrounding countries should be enhanced and their development should be accelerated, alongside full market coupling.

The electricity day-ahead market coupling between Romania, Hungary, Slovakia and the Czech Republic represents a positive development in terms of integration into the European Market. However, in order for this mechanism to fully accomplish its objectives, the Romanian electricity market should develop trading instruments similar to those which are in place within other EU countries, including bilateral negotiated contracts.

Connection of the national gas transmission system to those of neighbouring countries requires investments to overcome the current technical limitations of the cross-border pipelines, namely to increase system operating pressure and completion of reverse flows with Hungary and Ukraine, and to complete the construction of the much delayed Romanian-Bulgarian interconnector. The development, on Romanian territory, of the Bulgaria-Romania-Hungary-Austria gas transmission corridor to ensure the flow of gas from alternative sources to Central Europe and as well as the connection of the national gas transmission system to the international transit lines crossing Romania should be completed. A further extension of the Iasi-Ungheni pipeline is needed to reach Moldova's main demand centre in Chisinau and allow this interconnector to be used to its full potential as well as the development of the national transmission system for the intake of gas from the shore of the Black Sea. On the gas market, progress on the implementation of European network codes needs to be a priority, to ensure that Romania's economy can fully benefit from market integration.

6.2.5 Taxation of energy companies

Every year energy companies are ranked in the top 10 annual contributors to the state budget. In spite of the sector's already large contribution authorities have taken a noticeable interest in raising even more revenue in taxes from energy companies. In February 2013, the government introduced a "windfall tax" of 60% applied on the revenues of gas production companies allegedly as a result of gradual price deregulation and a 0.5% tax on sales of crude oil and minerals extracted. These taxes were introduced without a comprehensive assessment of their economic impact. These taxes were also accompanied by a so-called "tax on natural monopolies", affecting gas and electricity transmission and distribution companies. These taxes were initially made applicable until the end of 2014 but they have been extended for one more year through last-minute legislative changes. The retail fuel sector was also affected in 2014 by an additional increase in excise duties of EUR 0.07/litre of gasoil and gasoline. Moreover, the energy sector as a whole has been subjected to the new tax applied on the gross book value of special constructions, which generated considerable criticism from all affected sectors in the economy, from energy to telecommunications and agriculture. The Government has announced plans to implement a new fiscal regime for the oil and gas upstream operators starting from 1 January 2016.

FIC Recommendations

The energy industry is a key sector that needs fiscal stability, predictability and fiscal transparency as investments involve high risks and require a long term approach. Increasing the taxation burden for already fair and transparent contributors to balance the state budget is unfair and unsustainable and will only decrease investment in the Romanian energy sector. The FIC has repeatedly emphasised that fiscal instability and increased taxation distort the energy market and jeopardise much-needed investments in the sector. Legislative predictability, fiscal stability, operational attractiveness and coherent policies to incentivise investments are key factors to ensure the competitiveness of the energy sector in Romania and facilitate the development of a long-term energy strategy. Moreover, the FIC emphasises that changes in tax legislation should be made only after a careful impact assessment and only after thorough consultations with relevant stakeholders. Finally, the FIC reinforces its recommendation to the authorities to improve the tax collection rate and tackle tax evasion, as an effective way to ensure additional resources for the state budget, and ultimately as pre-requisites for sustainable economic growth.

6.2.6 Energy efficiency

Romania could capitalise on its energy resources more efficiently than in the past by addressing a set of issues which includes old assets, low (often subsidized) energy prices, outdated building stock, reckless consumer behaviour and an inefficient regulatory framework. The potential for energy savings is immense in the industrial and residential sectors, as well as in the inefficient heating sector. Particular attention must be given to the building stock, since about 45% of final energy consumption takes place in residential and non-residential buildings.

Romania transposed the provisions of the Energy Efficiency Directive (EED) into national legislation by Law no. 121/2014 and opted to implement alternative measures to decrease primary energy consumption by 19% (the equivalent of 10 million tons of oil equivalent [toe] by 2020). The Law provides for the implementation of a wide range of policy instruments in the next few years: setting-up an energy efficiency investment fund, adopting standards and implementing best available technologies to improve energy efficiency in the industrial sector, energy audits by large enterprises coupled with training of energy auditors, promotion of Energy Service Companies (ESCOs) and energy management systems, implementation of energy efficiency education campaigns etc. The government has also presented a draft of the National Action Plan for Energy Efficiency which underlines that energy efficiency policies should particularly target the sectors with the highest potential for saving energy consumption: the residential and public buildings sectors, the energy transformation, transport and distribution sectors, the heating sector, energy-intensive industries as well as public transportation.

FIC Recommendations

The FIC supports the implementation of policies to achieve targets on energy efficiency while minimising the impact on energy prices and not affecting the functioning of energy markets and also supports the improvement of Romanian legislation on energy efficiency. The FIC believes that available national and European support schemes and funds (EU funds, revenues from ETS allowances, cogeneration contribution and small central and local state budget funds) should be centralised to set-up the dedicated Fund for energy efficiency investments in the sectors with the highest saving potential. As a grassroots approach, integrated information and education campaigns should be carried out to raise consumers' awareness of energy efficiency.

Two particular sectors need urgent and realistic action. In district heating, investments have been scarce and energy losses put at risk the whole system whilst increasing artificially the cost of heat for final consumers. Although it is unlikely that the entire district heating systems could be made efficient, some, in particular those located in large cities, may have better prospects provided that investments come. To increase efficiency significantly in heat generation, new investments are needed in production capacities based on high efficiency cogeneration as well as other low-carbon technologies such as renewable energy sources (biomass, biogas, geothermal heat) and waste-to-energy projects. In the building sector, the potential for energy savings is large, even though the costs are also estimated to be significant. Particular attention should be paid to timely implementation of the EED (annual renovation of 3% of the space in public buildings) and of the Energy Efficiency of Buildings Directive (EPBD), in relation to which Romania faces delays and unclear milestones to reach the 2020 targets.

Taxation

7.1 Positive Developments

In the last few years, the Romanian fiscal environment has generally improved. The country has a competitive flat rate of 16% for both corporate and personal income tax, which has brought many benefits to the economy since its introduction in 2005. The flat tax boosted growth and encouraged compliance. In January 2011, legislation on social contributions was incorporated into the Fiscal Code, aiding transparency.

With effect from 1 January 2014, Romania has implemented specific provisions favouring the creation of Holding Companies in the country, such as the participation exemption regime.

Following long standing requests from the business community, from September 2014 the employer's CAS contribution was reduced by 5%. In recent years, transfer pricing legislation has been clarified and now closely follows OECD and EU guidelines. Provision exists for Advance Pricing Agreements (APAs), although the procedure for applying for them has not yet been fully developed.

Some of the proposals below may have already been taken into consideration in the drafts of the revised Fiscal Code and Fiscal Procedural Code, however we cannot anticipate how and to what extent they will be reflected in the final version of the law.

7.2 Areas for Improvement

7.2.1 The legislative consultation process and abuses against legitimate business

Consultation between the state authorities and the business community is essential to review both draft legislation and the implementation of existing legislation. This will enhance the quality of legislation and support its uniform application. There have been some good examples of improved communication between the business community and the state authorities, such as the discussions between FIC and MF representatives. However, there is still a continuing problem of legislation being passed quickly, often at very short notice, and with little time for the business community to have effective input.

Furthermore, tax inspectors' interpretation of legislation changes frequently and new interpretations are also applied to the past. This means that in practice, the rules can change unpredictably and dramatically. Recently, we have witnessed an increase in the number of cases in which the tax inspectors have adopted an abusive and hostile interpretation of legislation.

Moreover, instead of focusing on solving essential problems related to collection, such as fighting fiscal evasion related to VAT and excise duties in sensitive sectors (i.e. tobacco, alcohol, grain, etc), as well as combating undeclared work, for example in the construction sector, the tax authorities often carry out quite aggressive fiscal inspections on taxpayers which are some of the most important contributors to the state budget. These inspections can often last for long periods, disrupting business and hence ultimately harming the ability of these businesses to generate revenue for the state budget.

Frequently, conflicts of interpretation on fiscal topics generated by legislative inaccuracies lead to the unnecessary instigation of criminal proceedings, since the fiscal authorities assume no liability for settling the conflict of interpretation. In most situations the instigation of criminal proceedings is a disproportionate measure in relation to the amounts involved. The criminal law blocks the settlement of fiscal issues, and the settlement time is long. The experience of Romanian courts with these issues is limited, and this leads to a lack of predictability in settlement decisions. All this combined with precautionary measures (seizures and garnishments) inevitably generates major economic losses for taxpayers that can even lead to insolvency, cessation of business and bankruptcy.
The criminal record file impacts upon an investor's reputation and has particularly serious consequences in relations with business partners (associates involved in the implementation of major joint investments, clients, suppliers, financiers, employees, management and the shareholders of listed companies in particular).

Since the fiscal authorities often focus aggressively on companies which are actually paying the correct taxes, and which are large contributors to the budget, there is a major risk of a significant deterioration in the image of Romania in international business, the media, and diplomatic circles, including with the European authorities.

The immediate consequence will be reduced FDI in Romania with the major risk that even existing investors could significantly reduce their presence or their investment plans, or even leave Romania altogether. This could have a significant impact on the development of Romania which is in global competition with other countries to attract and maintain foreign investment.

FIC Recommendations

The FIC welcomes the MF's openness to dialogue and looks forward to continuation and enhancement of the consultation process. At the same time the FIC expects a more regular and consistent dialogue with ANAF representatives on the predictability of the law and its uniform application. The FIC also urges the MF to give the business community more time to review draft legislation, so that companies can understand and comply with their tax obligations in a timely manner. The FIC also recommends the application of the In dubio contra fiscum principle, based on which each time a legal provision is unclear, this should be interpreted to favour the taxpayer.

Consequently, the clarity, stability and predictability of the fiscal framework and its implementation and interpretation are critical conditions in investment decisions. Any change in legislation, including its interpretation, should be adopted after consultation and duly applied by the tax authorities only for the future and not retrospectively.

7.2.2 Rewriting the Fiscal Code and Fiscal Procedural Code

The Fiscal Code and Fiscal Procedural Code represent the backbone of the tax system in Romania. Consequently, a high degree of transparency as regards any potential change to these documents is imperative. At the same time, such fundamental documents should be easy to read, understand and eventually apply by taxpayers. The FIC has contributed to the work of developing new, clear and concise versions of the Fiscal Code and Fiscal Procedural Code. However there are many aspects which require further work and consequently cooperation is a key word which should govern the reform process.

FIC Recommendations

The FIC recommends future enhanced cooperation between the tax authorities and the business environment in relation to any potential changes to the Fiscal Code and Fiscal Procedural Code. In addition, the FIC expects the new draft versions of these documents, scheduled to take effect from 1 January 2016, to be discussed, agreed and adopted on time, to reduce the ambiguity which currently affects the fundamental laws of the Romanian tax system.
To aid fiscal stability, the FIC also recommends the removal of the "de regula" ("as a rule") clause from Article 4 of the Fiscal Code. In its current form, this Article states that changes to the Fiscal Code may be made only by a Law, that they should take effect only from 1 January of the following fiscal year, and that, as a rule, ("de regula") they should be announced at least six months in advance. The "de regula" clause has, in practice, allowed the authorities to make frequent changes to fiscal legislation at very short notice. Based on the latest draft legislation, the "de regula" clause has been eliminated. The FIC welcomes this and hopes that the draft legislation will be passed into law in a smooth and timely manner.

7.2.3 Transparency and predictability

The FIC considers that improving transparency should represent a top priority for the authorities as this will lead to an increase in predictability of the national tax environment and is also very likely to enhance trust among current and future investors. A non-transparent legislative process seriously compromises the potential for economic development, mainly because it acts as a deterrent to the attraction of foreign direct investment.

A consistent and coherent interpretation of legal provisions by representatives of the state authorities, aimed inter-alia at eliminating situations where different views have been expressed concerning sometimes controversial retroactive application of certain legal provisions, would greatly contribute to improving transparency.

Tax rulings and Advance pricing Agreements (SFIAs and APAs) are binding on the tax authorities. Consequently their purpose is to facilitate cooperation between the tax authorities and companies. SFIAs and APAs apply to future transactions and in this context, the legal deadlines for issuing these documents are extremely relevant. Despite the fact that these deadlines are in some cases (i.e. given the urgency of the transactions) unsatisfactory for the taxpayer, most often they are not respected by the tax authorities, thus leading to frustration among taxpayers and generating negative consequences for business. The process is also often delayed due to internal consultations with the MF before a tax ruling is issued. Although not formalised, this is a frequent practice.

During tax inspections, the tax authorities issue a draft report and present it to the taxpayer in the final discussion, which marks the closing of the tax inspection. Taxpayers are then allowed 3 days to file their comments on the conclusions of the tax inspection. After this, the tax authorities issue their final report which also contains their position on the comments filed by the taxpayer. By presenting the taxpayers' comments after the closing of the tax inspection, this process becomes a mere formality which rarely triggers any changes in the tax inspector's conclusions. Consequently, from a practical point of view, it does not represent a proper mechanism for ensuring the taxpayer's right to defend its position.

During the administrative process, while the relevant fiscal authority is handling appeals, the taxpayer is not informed about the conclusions which have been reached, but simply receives the tax authorities' final decision, without having the opportunity to express an opinion.

FIC Recommendations

Creation of a database with non-binding and binding rulings. The FIC recommends setting up a (paid access) database tool (with full respect for the confidentiality principle), bringing together all binding and non-binding tax rulings issued/to be issued by the MF, in its capacity as legislative issuing authority, in connection with the interpretation of each article of the Fiscal Code, the Fiscal Procedural Code, the Accounting Law and any related secondary legislation, in order to normalise and create a unitary approach to the interpretation of the relevant legal provisions by both tax inspectors and taxpayers throughout Romania.

Improvement in the process of issuing SFIAs, APAs and non-binding opinions. The FIC proposes that even if a reduction in the existing terms (e.g. 3 months for a SFIA and 12/18 months for an APA) is not possible, at least measures should be taken to ensure that SFIAs/APAs and non-binding letters are issued within these legally and clearly stipulated time limits. In addition, provided that the consultation process with the MF before the issuance of a SFIA is upheld, an integration of tax ruling practice within the MF could be a solution to streamline the consultation process.

The FIC also recommends the implementation of a "silent acceptance" mechanism based on which these documents (i.e. APAs and SFIAs) are accepted ex officio if the legally stipulated terms are not respected by the tax authorities and no communication is sent to the taxpayer.
Increased relevance and impact of the final discussion during tax inspections.

The findings of the tax inspection should be presented to taxpayers before the final discussion. Accordingly, taxpayers should be allowed to prepare their arguments before the closing of the tax inspection and present them to the tax authorities during the final discussion. The authorities should then assume responsibility in issuing a final inspection report that takes into account legal observations brought by the taxpayer.

We also recommend greater transparency in the process of handling appeals, and the creation of a legal framework which will give the taxpayer the right to be informed as to the tax authority's conclusions, through the sending of a draft decision before the final one. A reasonable period of time should also be allowed for the taxpayer to express an opinion on the draft.

7.2.4 National jurisprudence and tax courts

Practice has shown that tax inspection reports and assessment decisions issued upon the closure of tax audits are frequently cancelled later in courts following appeals filed by taxpayers. In these situations, ANAF has had to assume a series of costs, not only in the form of compensatory damages paid to taxpayers, but also in terms of time and resources allocated to litigation which they lose.

A consolidated database with traceability features for each file at the different courts in Romania bringing together the tax decisions and rulings issued by the Romanian courts would bring two benefits: 1. It would lead to an improvement in ANAF's resource allocation process and a better assessment of costs vs. opportunities and 2. It would assist unitary application of legislation in Romanian courts in proceedings judging the same underlying principle.

FIC Recommendations

The FIC recommends the creation, in partnership with the Ministry of Justice, of a database on existing national jurisprudence on tax issues, allowing traceability of legal actions, from one court to another.

The FIC also recommends the creation of specialised sections in the Romanian courts focused only on tax matters. To assist this process, the FIC recommends specific professional training for judges, with the help and the participation of the institutions required to ensure the institutional framework for the development of judges i.e. the Supreme Council of Magistrates (CSM) and the National Institute of Magistrates (INM).

7.2.5 Combating tax evasion

Tax evasion creates unfair competition, putting those who comply with the law at a disadvantage. The FIC welcomes and supports the MF and ANAF'S on-going work to tackle tax evasion and tax fraud.

However, tax audits are not always focused in the right way to enhance revenue collection for the state budget. Tax evasion, affecting both direct and indirect taxes continues to be a problem.

FIC Recommendations

Penalties for tax evasion should be increased and a list of taxpayers with arrears should be made public.

Reform of ANAF should continue, to eliminate the practical deficiencies in fiscal administration, as well as to create an integrated public IT system connecting different authorities (such as fiscal, health, local administration, legal, and the land registry).

While the need to increase budget revenue and fight tax evasion is fully appreciated by the business community, the FIC recommends a prudent and rational approach as regards future actions to be taken. Consequently, the focus of tackling tax evasion should be on targeting high risk industries and taxpayers based on a prior thorough analysis, rather than placing an additional burden on trustworthy taxpayers which can slow down or even stop their business activities, which in turn generate budget revenue. Aggressive practices can only distort cooperation between the business environment and tax authorities and have the potential to lower the level of trust taxpayers have in the authorities.

Intensified efforts to clamp down on the subterranean economy are a more effective way to increase budget revenue than aggressive targetting of honest taxpayers for auditing. This could also create the potential for a reduction of certain taxes and contributions.

7.2.6 Voluntary disclosure

The "voluntary disclosure" concept is a practical solution to increase voluntary compliance. This concept, combined effectively with increased penalties for tax evasion and lower interest for those that comply, could bring significant medium and long term benefits by increasing budget revenue without the need for additional measures.

FIC Recommendation

The FIC recommends a proactive and consistent approach to increasing voluntary disclosure.

This approach should include higher penalties for taxpayers which do not comply with their tax obligations and incentivising taxpayers who regularly fulfil their obligations on a timely basis. Experience shows that this type of positive stimulation has positive results – for example, in the case of local taxes, the reduction granted if payment is performed in advance displays its benefits every year. However, the FIC recommends a careful analysis of the sensitive balance between incentivizing taxpayers and increasing penalties.

7.2.7 Constructions tax

Since the introduction of the special constructions tax at the beginning of 2014, extensive discussion has taken place about its impact on the business environment, the implementation mechanism, and on the norms for its application. The impact of this tax was underestimated. Its real impact has been approximately 3 times the initial estimate. At the same time, the implementation mechanism still has numerous deficiencies which have been highlighted by the entire business environment.

FIC Recommendations

The FIC welcomes the reduction to 1% of the tax on special constructions. However, the tax still represents a severe tax burden for the business environment, and continues to have a negative effect on the Romanian economy. Consequently, the FIC recommends the elimination of this tax, as it represents a tax on investment.
According to the latest draft legislation this tax has been eliminated and we trust that this amendment will be approved in the final version of the Fiscal Code and applicable as of 1 January 2016.

7.2.8 Tax refunds

Refund requests are frequently refused for spurious, bureaucratic reasons. This causes severe hardship to businesses and can even lead to bankruptcy, which ultimately has a negative effect on budget revenue too.

Currently, interest on late tax refunds is only granted to taxpayers under certain conditions and applications are often ignored by the tax authorities, forcing the taxpayer to litigate to recover the interest.

FIC Recommendations

The tax authorities should take steps to ensure swift refunds for companies and individuals who are eligible and should not create unnecessary bureaucratic obstacles or delays.

If delays do occur, the tax authorities should be required to pay interest automatically based on the tax record of every company at the time the refund is made, provided that legal requirements are met.

7.2.9 Corporate tax consolidation and VAT groups

With effect from January 2014, Romania has implemented specific provisions favouring the creation of Holding Companies. However, work still needs to be carried out to create a true and authentic Holding regime, acting as an attracting force for groups of companies.

Moreover, Romanian legislation only provides for VAT consolidation within a VAT group, which does not allow the VAT advantages provided for under a standard VAT Group structure, as mentioned by the EU VAT Directive. At least 16 Member States in the EU have introduced provisions allowing for the formation of VAT groups into their national legislation.

FIC Recommendations

Legislation on corporate tax consolidation should be passed to allow the compensation of profits and losses within a group of companies. This would bring Romanian legislation into line with that of other CEE countries such as the Czech Republic, Poland and Bulgaria, encourage the setting up of holding companies in Romania and discourage migration to other jurisdictions.

Romania should also opt to adopt the VAT Grouping principle, which allows a number of taxable persons (i.e. the VAT group) to be treated as a single taxable person. Consequently, any activity engaged in by any one of the group members would be deemed to have been carried out by the group. The group's internal transactions should not exist for the purposes of VAT (i.e. they should be transactions falling outside the scope of VAT).

The introduction of a corporate tax consolidation and VAT Group scheme would bring cash flow benefits to companies, creating a competitive tax environment for Romania with a positive effect on budget revenue.

7.2.10 VAT Global representative

Currently, foreign companies which use Romania as an entry point to the EU for goods imported from outside the EU are required to register for VAT purposes in Romania and declare the transactions performed as such.
In practice this measure has proven to be one of the main reasons why foreign companies have been reluctant to route their imports through Romania and, instead, use other EU countries (e.g. Germany, the Netherlands, Belgium).

FIC Recommendations

The FIC recommends the introduction of the simplification measures known under the concept of Global Representative. This means allowing foreign companies to appoint a Romanian established company to act as their representative in relation to all the goods they import into Romania and subsequently dispatch to other EU countries.

Consequently, foreign companies would no longer be required to register individually for VAT purposes in Romania and comply with local VAT reporting obligations. This could provide a valuable boost to the local economy, especially in Constanta, bringing particular benefits for Romanian transport/logistics companies.

7.2.11 Tax treatment of operations performed within the Black Sea exclusive economic zone

The tax treatment of Offshore operations (i.e. drilling, constructions and maritime installations, transportation of offshore goods, etc.) is still unclear in Romanian tax legislation. The tax authorities' interpretations are in many cases contradictory, thereby leading to confusion in the business environment, which is confronted by uncertainties and permanent risks in relation to the tax obligations linked to these operations.

FIC Recommendation

The FIC recommends that the MF should draft a Guide in the form of an official document (based on the model of the UK Memorandum of HRMC) which should provide details concerning the tax treatment applicable to this type of transaction, from the perspective of VAT, excises, customs and expatriate taxation. This would increase transparency and predictability within this sector.

7.2.12 Taxation of income from gains on capital markets by foreign based investment funds

Legislation on taxation of these funds is unclear, leading to confusion and discouraging investment. Non-resident investment funds which are not legal entities are exempt from taxation, but this does not apply to foreign based legal entities. The law also creates many uncertainties, for example the possibility that Romanian 16% withholding tax may apply for dividends and interest earned from a Romanian paying entity.

FIC Recommendations

The funds should be exempted entirely from paying Romanian tax. In most EU countries, investment funds which purchase investments on the local capital markets simply pay all their tax in the country where they are based. Also, imposing tax on interest and dividends paid to foreign funds might be viewed as discrimination, since the treatment of Romanian investment funds appears to be more favourable.

Additionally, the system for taxing capital gains derived by non-residents from Romania (which generally involves appointing a Romanian fiscal representative) is excessively bureaucratic and burdensome, causing serious disruption and barriers against bringing foreign capital to the Romanian Stock Exchange – this should be aligned with EU best practice.

7.2.13 Continued development of private pensions funds

The mandatory private pension system (Pillar II), currently covering almost 5.8 million participant members, must be protected by maintaining the current timetable for the transfer of social contributions to private pension funds.

The optional private pension system (Pillar III), managing the savings of approximately 300,000 participants, should be consolidated by gradually increasing tax incentives to facilitate adherence. More significant tax incentives have already been implemented in neighbouring Member States to encourage private retirement savings and, implicitly, the reduction of the pressure on the public pension budget on a long-term basis.

FIC Recommendation

The FIC recommends continuing to increase the contribution rate to mandatory private pension funds (Pillar II) from 4.5% in 2014 to 6% in 2016, as well as continuing to extend the fiscal deductibility applicable to employers' contributions to optional pension funds (Pillar III) from the current EUR 400 per year to EUR 1,000 per year.

7.2.14 Deductibility of inventory write-offs

Many companies encounter inventory losses. In relation to food products and pharmaceutical products in particular, companies are required to write off significant inventory due to various quality issues. Fiscal legislation in Romania does not generally permit the company to claim a tax deduction for inventory or other assets written off for the above reasons, or indeed for any reason. Consequently, the profit tax provisions are more restrictive than the VAT provisions.

Companies should not suffer a tax disadvantage when inventory/assets are written off as this penalises the company for carrying out its normal business.

FIC Recommendations

Fiscal deductions should be permitted for inventory or asset write-offs. The profit tax provisions should be aligned with those for VAT.

In addition, the denial of a fiscal deduction for inventory write-offs is discriminatory since other EU Member States permit this type of deduction.

7.2.15 Reinvested profit

Reinvestment of profit helps a business to grow, boosting economic growth, and consequently enhancing budget revenue. For this reason, many countries offer tax incentives to companies which reinvest profit. However, the current mechanism for implementing the reinvested profit incentive relates to specific assets (i.e. assets falling within subgroup 2.1. of the Catalogue of the Classification and Normal Functioning Lifespan of Fixed Assets). This provision discriminates between investors.

FIC Recommendation

The FIC recommends extending the incentive to other assets (e.g. constructions). This would help those companies which are subject to high taxation (i.e. the tax on constructions) and which may not benefit from the reinvested profit tax incentive.

Technology & Innovation

8.1 Positive Developments

8.1. Development of the start-ups ecosystem

With a sound number of highly rated universities in cities such as Bucharest, Timisoara, Cluj, Iasi, and Constanta that provide a regular source of talented people and with some of the biggest IT&C multinationals present in Romania, it was inevitable that innovation incubators dedicated events should become very fashionable during 2013-2014.

The flagship centre is that created in 2012 in Cluj. Cluj IT is a cluster based organization formed of various actors in the ITC field: providers of software services and solutions, universities and research institutes, public bodies and other catalyst organisations. By 2017, Cluj IT&C Cluster aims to become one of the leading suppliers from CEE for innovative IT services and products, as well as of organisational support systems, with the majority of its members able to compete on national and international markets.

In 2014, according to the Innovation Union Scoreboard[7], Romania was still positioned among the last in the EU-27 countries. But this is very likely to change as the Romanian IT hubs become serious competitors to London's Silicon Roundabout, Berlin or even Silicon Valley.

8.1.2 National Strategy on the Digital Agenda for Romania

In November 2014, the Ministry of Information Society (MIS) launched the National Strategy on the Digital Agenda for Romania. The strategy, developed in cooperation with industry, aims to contribute to economic growth and increase competitiveness in Romania.The national strategy is aligned with the Digital Agenda for Europe 2020, with the primary objective of developing the Digital Single Market.

Some of the objectives set by the European Digital Agenda have been assumed and adapted to the current context of Romania, aligned with the strategic vision of the Romanian IT&C for 2014-2020.

For the full implementation of the digital objectives in Romania needs an investment of about **EUR 3.9 billion by 2020**. Once implemented, **the impact on GDP (direct and indirect) is expected to be 13%**.

Romania's objectives include:

- Reducing the percentage of the population who have never used the Internet from 42% in 2013 to 30% in 2020, by building infrastructure in the white areas and, thus, considerably reducing the digital divide and economic gap between regions.
- Increasing the percentage of SMEs which sell online from around 9% in 2013 to at least 20% by 2020.

7. http://ec.europa.eu/enterprise/policies/innovation/files/ius/ius-2014_en.pdf

- Increasing the use of e-governance tools by the population to 35% compared to around 5% at present.

8.1.3 Significant contribution to national growth

According to the National Institute for Statistics (INS), the communications sector accounted for 6% of GDP in 2014 and registered an 11% increase in volume compared to 2013. Moreover, it contributed 0.6% to the total GDP growth of 2.9%, the largest contribution to growth after industry (0.9%).

The IT&C sector has doubled its contribution to Romania's GDP in the last 4 years, surpassing agriculture and almost matching construction. IT&C had a growth rate of 110% in 2011-2014, over 5 times faster than GDP growth for the same period.

8.2 Areas for Improvement

8.2.1 Broadband connectivity

Broadband infrastructure and services development, particularly in remote rural areas, remains one of the key challenges in Romania. Considerable progress has nevertheless been achieved in the past two years.

RONET status: There are 783 white zones where private investment in backhaul broadband infrastructure is unlikely. The contract was won by Telekom in August 2014, which received a grant of 65m€. While remaining under public ownership, the infrastructure will be operated and maintained by Telekom and will be accessible to other operators through wholesale agreements.
Following years of continuous investment in FTTx, the household penetration rate of fixed broadband connections grew to 47% in 2014.

With LTE currently covers more than 60% of the population, the percentage of mobile broadband connections per 100 inhabitants has grown by more than 18% in the past two years.

With advertised download speeds of 1Gbps for fixed broadband and 300Mbps for mobile broadband, Romania has the highest download speed in the EU, ahead of Sweden.

FIC Recommendations

With the introduction of the internet into mobile devices, and the combination of these two, ubiquitous connectivity has become a reality. The advance of IT&C explains why new mobile Government applications are emerging and why GOR has many opportunities to use wireless channels. To support the increase of mobile broadband connectivity and nationwide coverage, operators require heavy investment in infrastructure. In this context and considering the Government's active support for the development of fixed broadband connectivity behind the successful RONET initiative, the FIC recommends proactive support from Government for the development of mobile broadband connectivity.

Currently, there are a variety of administrative barriers which significantly diminish the predictability and flexibility of infrastructure investments. We believe that the investment environment could be significantly improved by the rapid transposition into national legislation of Directive 2014/61/EU on measures to reduce the cost of deploying high-speed electronic communications networks, as well as modification of Law no. 154/2012 on the electronic communications infrastructure.

8.2.2 Cyber security & pre-paid registration

Law no. 580/2014 on cyber-security which passed in December 2014 included unclear provisions which may have subjected companies, including network operators and electronic communications providers, to unreasonable requests for access to information, unclear notification obligations or obligations which double already existing reporting requirements in the telecommunications sector. This law was declared unconstitutional by Decision no. 17/2015 issued by the Romanian Constitutional Court (CCR) in January 2015. The constitutional judges established that several articles of the law were in violation of the Constitution.

In 2014, the CCR had also declared as unconstitutional legislation related to the personalisation of SIMs belonging to prepaid customers. The Court ruled that the legislation merely made additions to the previous Law no. 82/2012 on the retention of data generated or processed by providers of electronic communications services or networks addressed to the public, which had already been declared unconstitutional by the CCR, (This was the second ruling that legislation with respect to data retention norms was unconstitutional).

The use of personal data collected by different kinds of operators and especially electronic communication providers to fight against criminality has been hotly debated. Public authorities continue to stress the increased need to ensure cyber-security, considering Romania's geographical location and strategic position in an area with increased geo-political tensions. Consequently, new legislation is expected, and it is imperative that this should be in compliance with the rulings made by the CCR and the European Court of Justice, as well as with European directives to ensure effective protection of fundamental human rights.

Following an initiative by Romania’s President, discussions on SIM personalisation for prepaid customers will be resumed. The technology industry believes that before legislation is passed, a comprehensive debate should take place, involving all interested parties, so that an effective operational framework can be found which strikes a fair balance between the different interests. An appropriate forum should be created, in which this debate can take place.

FIC Recommendations

Faced with the rapid development of digital uses and growing threats (viruses, spam, etc.), simple tools need to be put in place to help users to cope with, manage and control their personal data and how it is used.

Any legislative initiative on cyber security and prepaid registration should be preceded by a comprehensive process of consultation with the industry so that the final draft ensures an adequate balance between the public authorities' need to ensure national security and the fundamental rights and obligations recognised by the Romanian Constitution and international conventions.

The FIC considers it essential for the following points to be taken into account when new norms on prepaid registration are drafted:

- There should be an implementation period for the new norms of at least 18 months.
- Rules should be adopted to maximise the use of electronic instruments in the registration process.
- The support of the public authorities, in terms of budget and logistics, should be ensured, throughout the implementation process.

8.2.3 Transparency on data analytics and on implementing data protection rules

The digital society is undergoing major changes. As more and more of our day-to-day activities go electronic and digital, very large volumes of data about us become available. This phenomenon is being compounded by both technological and behavioural factors (e.g. increased use of online services such as e-commerce, e-government, social media, etc.).

Today, many firms are building their business models around their use of this data, especially for advertising, personalised offers and real time customer interactions. This use can also generate services that will benefit both individuals and society in general. According to an Internet of Things (IoT) survey conducted by Acquity Group in 2014, consumers would be prepared to share their personal data in order to make their device (e.g. watch, car) smarter, thus bringing a tangible benefit to the customer experience.

In this context, a user centric privacy framework must be based on a proper understanding of the user’s privacy interests.

There is a need to provide a consistent user privacy experience that will establish familiarity with the privacy implications of applications and services, empowering the user and leading to better privacy management.

When human activity is outsourced to technology based on algorithms, there will always be a fear of loss of autonomy.

After transposing the Data Protection Directive 95/46/EC in 2001, the Romanian authorities have gradually increased the enforcement of data protection norms, which have an impact on all companies carrying out activities in Romania, including in the IT&C sector. Companies have needed to gradually adapt their products and services, as well as their internal processes, to ensure compliance with data protection requirements. The authorities have provided only limited support for these efforts, while the amount of information and data available on how authorities apply the existing norms is limited.

The practice of the National Authority for the Supervision of Personal Data Processing is not transparent and repeated changes in approach (e.g. on how to interpret notification related rules) are not publicised. This may lead to practical roadblocks in the promotion of new types of services, such as cloud computing, as companies are unsure on how to ensure compliance with the data protection requirements.

FIC Recommendations

Rather than focusing on consent at the expense of other opportunities to enhance a user's privacy, we believe that a key objective for data controllers should be to develop the mechanisms by which users can easily make informed choices depending on the context of specific uses of data.

The National Authority for the Supervision of Personal Data Processing and the MIS should ensure transparent and predictable implementation of the legislation on data protection. Adoption of guidelines, such as that on data protection in cloud computing proposed at the beginning of 2015 by the FIC together with AmCham Romania, should lead to the required increase in transparency.

Government and IT&C players should also commit on the following four areas:

- Security of customers' personal data through its reliable processing and secure storage.
- Control for customers over their own personal data and how it is used (e.g. "opt-in","opt-out").
- Transparency in terms of the handling of the data at any time and informed consent.
- Support for all customers and users to help them protect their privacy and manage their personal data better.

Finally, the GOR should actively participate in the discussions related to the adoption of the proposed Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of this data, as this legislation will represent a significant change of focus to the rules governing companies' use of personal data and the provision of services involving the processing of personal data, including outsourcing and cloud services. To define the priorities for its participation, the GOR should hold thorough consultations with the industry and other relevant actors.

8.2.4 Net neutrality

The Net Neutrality debate began in the US a few years ago. In late 2010, the Federal Communications Commission (FCC) of the United States issued a new set of regulatory provisions on Net Neutrality, which entered into force in November 2011.

Less than a year after the European Parliament voted to enshrine net neutrality into law, the principle has come under attack by the EC.

The majority of the 28 EU member states in the European council have voted in favour of changing the rules to block discrimination in internet access but allow the prioritisation of some "specialised" services that required high quality internet access to function (e.g. connected cars)[8].
In Romania, ANCOM published a new decision in February 2015 setting out a number of mandatory measures to be taken by all internet service providers. Under the new rules, operators must clearly state information about possible access, traffic, services and applications limitations and their compliance with Romanian legislation on their websites. They must also state the minimum/ maximum guaranteed speed or the absence of such guarantees must be also visible for each offer.

FIC Recommendations

Along with the development of the IoT and various vertical businesses in the near future, guaranteed quality will be the vital prerequisite for all these specialised services for the benefit of end consumers, under a framework that will further encourage innovation, startups and fair competition along the entire Internet value chain.

Although discussions are still ongoing at EC level, Romania already has the legislative framework and authorities (eg: ANCOM, CC) which can assure the proper functioning of the IT&C market.

8.2.5 Research & Development (R&D)

The R&D incentive has been the subject of intense discussion during the past 18 months and specific

8. http://www.wired.co.uk/news/archive/2015-03/06/europe-reverses-on-net-neutrality

positive measures have been implemented, such as an increase in the supplementary deduction of R&D related expenses, from 20% to 50%. However in order for this tax incentive to reach its full potential and to represent a real opportunity and attraction for companies performing activities connected to this area, the FIC considers that changes should be made.

FIC Recommendations

The FIC encourages the elimination of restrictions caused by the use of ambiguous terms (e.g. rezultat valorificabil) and the clarification of the norms for the application of this facility.

In addition, the FIC considers that strong inter-institutional cooperation between the MF and the Ministry of Education and Scientific Research (Ministry of Education) would bring benefits to the general legislative framework dealing with R&D facilities by bringing clarity and by tailoring it to the business environment's needs.

For example, an increase in the supplementary deduction of R&D related expenses for scientific and technological projects and programs directly serving key national socio-economic programs and with potential to increase Romanian Intellectual Property assets could be made a priority. This would support the Government's strategy for R&D and Innovation to boost Romania IP assets that are currently well above the EU average. R&D initiatives could also be encouraged and financially supported by consortiums formed between technical universities and industry partners.

To facilitate this process, an analysis of best practices applicable in other states in relation to the implementation of R&D incentives would be particularly useful.

Agribusiness

9.1 Positive Developments

The Ministry of Agriculture and Rural Development (MADR) has published a draft medium and long-term strategy for the development of the Agribusiness sector for the period 2020-2030 which was developed with the support of the World Bank. This has been an ongoing request from the business environment and it is a welcome and necessary step in the further development of the Romanian agricultural sector.

The Land Registry Law has been amended, allowing the registration of agricultural assets and increasing the efficiency of consolidating agricultural lands or the setting up of guarantees for financing agricultural activities.

The absorption rate of APIA funds has been 88% of the total amount available for Romania (EUR 6.85 billion from a total of 7.79 billion). AFIR (The Agency for rural investment financing from FEADR.) disbursed EUR 6 billion, 74% from the total available funds of EUR 8.12 billion.

The decision to support young farmers in order for them to be eligible for EU funding (measure SM 6.1 from PNDR 2014-2020) is a welcome stimulant for the development and revival of rural life in Romania.

The agricultural sector has recently received more attention from the GOR. In the past it was regarded as the sole responsibility of the MADR. However, political leaders seem to have recently realised that agriculture is a key sector of the Romanian economy. The office of the Prime Minister and the MF have begun to show more interest in the needs of the agricultural sector.

9.2 Areas for Improvement

If the agricultural sector is to further develop and increase its competitiveness several steps are required:

- Medium and long term sectorial strategies.
- Identification of new sources of financing for the agricultural sector.
- Reduction of the VAT rate for fresh agricultural products to the average European level. VAT should also be reimbursed more quickly by the fiscal authorities.
- Increased investments in the agricultural infrastructure (access roads, irrigation systems, etc.).
- Coherent strategy for the development of the agricultural infrastructure
- Incentives for land consolidation and cooperation among farmers
- The development of a position for Romania on the Transatlantic Trade and Investment partnership (TTIP).
- The conclusion of a National Pact for the development of the agricultural sector

9.2.1 The Strategy for the medium and long term development of the Agribusiness sector

The strategy of the Agribusiness sector is an analytical enumeration of all agriculture sub-sectors in Romania. It is an exhaustive text which correctly identifies and lists all the difficulties and issues faced by the agricultural sector. However, it does not put forward any clear and implementable solutions. The strategy also fails to identify the key sectors from a competitiveness point of view. The ultimate goal of a strategy should be the prioritisation of investments based on a detailed analysis because this increases transparency and predictability, which are important prerequisites for stimulating further investments.

The allocation of funds for the 2014-2020 programming period has been decided by the Government without consulting the private sector, the ultimate beneficiary of these funds. Consequently, it is not clear whether the 9.369 billion euro available have been allocated in the best possible manner.

FIC Recommendation

The MADR should be more transparent in explaining the reasons and the arguments behind the current allocation of EU funding.

9.2.2 Financing agriculture activities

One of the key issues keeping development of the agribusiness sector from reaching its true potential is the lack of availability of finance, mainly due to the following:

- Investments in the agribusiness and food sector usually have a high payback period, requiring longer tenor than typically available on commercial terms.
- A high proportion of agribusiness operators are relatively small requiring microfinance alternatives, which are not yet widely available.
- A large share of agribusiness operators do not have the minimum required accepted equity and collateral to be able to co-finance operations with loans.
- Promoting the financing of agriculture by reducing the minimum reserve requirements for banks that have a total exposure to the agricultural sector of maximum 2-3%
- Funding projects requiring both EU financing and bank financing is cumbersome and opaque. The process generally has unpredictable results after applicants spend significant resources on developing and attempting to finance projects.

A significant number of EU funded projects have been abandoned because of these issues.

FIC Recommendations

The cost of using the Guarantee Fund should be reduced.

Romanian farmers need to have access to increased collateral such as registered land, warehouse receipts (certificate de depozit) and crop receipts. Fine tuning the warehouse receipts system and decreasing its costs to final users would allow better use by a larger pool of operators. The crop receipts would allow farmers to pledge future crops under a regulated and easily accessible framework. Introducing a crop receipts system would further enlarge the collateral base and consequently increase availability of finance in the sector, including to small farmers.

An equity fund should be set up for agriculture. The Romanian agricultural sector is undercapitalised and increased equity would also facilitate increased access to bank financing.

Agricultural insurance products should be further developed to cover drought and frost which are the main environmental risk to crops in Romania. The lack of insurance for these situations increases significantly the cost of commercial financing of operations.

Development of a easily-understandable, unified, fast and non-bureaucratic financing procedure to fund projects requiring both EU and bank financing.

9.2.3 The alignment of VAT of agricultural products/ farm products to European level

Reducing the VAT rate for agricultural products has been an ongoing recommendation from the FIC. This would increase consumption and at the same time reduce fiscal evasion and create a level playing field for competitors in the sector. Aligning the VAT rate for foodstuffs to the European average of 4-7% would have positive effects on the Romania agribusiness sector making it more competitive on the internal market. The proposal below may have already been taken into consideration, however, at the date of this text we cannot anticipate the approval of such decision.

FIC Recommendation

The FIC recommends the reduction of the VAT rate on agricultural products starting with fresh (perishable) ones. The MF should carry out an impact assessment to determine the ideal VAT rate for these products in Romania and the initial budgetary impact of such a reduction.

9.2.4 Investments in infrastructure

Romanian agriculture will never be competitive without significant investments in agriculture related infrastructure at national level especially in access roads for agricultural lands and modern irrigation systems. The last major investments in access roads were made before 1989. Investments are also needed to slow down the process of desertification which is significant in the south of Romania.

The National Plan for Rural Development 2014-2020 (PNDR) envisages EUR 435 million of investments in irrigation systems and EUR 237 million in access roads. This means less than EUR 100 million of investments per year in essential infrastructure.

FIC Recommendations

FIC recommends that the allocation of funds to the PNDR should be reassessed.

The FIC recommends the development of the "Siret-Baragan" irrigation canal and also the restoration of existing irrigation systems with the objective of establishing a single national price for irrigation. Infrastructure investments not only increase competitiveness but are also a good source for jobs while the projects are under development.

In addition, the FIC recommends better transparency of the investment plan in order to improve predictability and long term planning by private operators. The infrastructure investments should be linked to a program encouraging private investments and/or public private partnerships.

9.2.5 The consolidation of agricultural lands

Measures to stimulate the consolidation of agricultural land taken so far have not yielded the expected results. Agricultural land in Romania is still very fragmented, which hinders the development of large agricultural enterprises.

FIC Recommendations

The FIC recommends better designed incentives for the consolidation of agricultural land. The GOR should support those farmers which decide to come together in associations and to develop the land for agricultural purposes in a consolidated manner.

The MADR has been considering developing a policy to prioritise APIA subsidies to land that is consolidated. The FIC believes this is a welcome idea and should be further developed and implemented.

9.2.6 Transatlantic Trade and Investment Partnership (TTIP)

The TTIP is designed to reduce trade barriers between the EU and the United States, including for agricultural products and investments. Romania has not been very active during the negotiations and the Government has not communicated on this issue with the private sector. Consequently, the TTIP's effects on long term investments cannot be evaluated.

FIC Recommendation

The GOR and the MADR should consult with the business community on the impact of the TTIP and draft a Romanian position to be shared with our European partners.

9.2.7 A Pact for Romanian Agriculture

In the agriculture and food industry, certain objective factors determine competitiveness of and these are independent of political doctrine and objectives. Effective strategies for the sector are a critical to ensure predictability and to encourage much needed long term investment. Consequently, the fact that a different strategy is introduced after each election is harmful to the long term development of the sector.

FIC Recommendation

The FIC recommends that all stakeholders and political actors should debate and agree on a long term pact for Romanian agriculture. Reaching a consensus will provide clarity for long term investments and, once achieved, political parties should refrain from modifying it.

Healthcare

10.1 Positive Developments

In the past two years there have been several positive developments which the FIC appreciates. The GOR approved the National Strategy for Health (2014-2020) and its implementation plan. The medical services basic package introduced in 2014 is a major step forward even if it still needs to be accompanied by other measures. The Government has also approved an interim Health Technology Assessment (HTA) Order.

The list of reimbursed medicines has been partially updated and now contains 17 new orphan drugs and 23 innovative one but the prescription protocols still have to be published in order for the new drugs to be available to patients.

It is also a development worth noting that waiting lists for treatment, especially in oncology, have decreased giving patients better access to medical care.

The process of digitalizing the Romanian healthcare system has continued with the development of electronic prescriptions, national health cards and electronic health files.

10.2 Areas for Improvement

Despite the strong need for reform of the healthcare system and many public commitments from the Government to do so, advances on many issues has been limited and progress is needed in some key areas. The healthcare system as a whole is not adequately financed. Romanian patients do not have adequate access to medicines for several reasons, one of them being the lack of budgetary resources. This lack of budgetary allocations for regular updates of the reimbursement lists, do not allow Romanian patients the same access to drugs as other EU citizens.
At the same time the Government should ensure full and correct implementation of the medical services basic package together with the reintroduction of copayment and a greater involvement of the private sector (i.e. insurance companies).

In order to address the issues above coherence, predictability and stability should be the prerequisites of healthcare reform. The IT infrastructure of the healthcare sector should be developed to allow better monitoring and greater efficiency in spending (e.g. patient registries, electronic cards) and at the same time healthcare indicators should be used in decision making.

The Government should improvement the financing and predictability of national immunisation programs, to ensure permanent availability of vaccines and diminish the risk of epidemics.

Due to the significant migration of healthcare professionals to Western Europe, the number of doctors in Romania has decreased, making access to healthcare even more difficult. This directly affects the health of Romanian citizens in the long term. Moreover, the Romanian healthcare system does not place sufficient focus on a healthy lifestyle, or on the prevention and early detection of diseases which, when discovered late, can place the highest burden on the system.

10.2.1 Funding the healthcare system

Romania spends less on health than any other country in Europe. There is a strong connection between the socio-economic development of a country and its investment in healthcare and education. Romania ranks second from bottom, in 35th position, in the European Healthcare Systems Index (EHCI) 2014. While other European countries have regularly increased their expenditure on health in the last few years, Romania is at the bottom of this ranking in terms of health expenditure per capita. In the absence of significant reforms and access to EU funds, there is little room for Romania to increase healthcare spending.

An adequate level of funding for the healthcare system should be ensured (with a gradual increase in the share of GDP allocated to healthcare to 6%) together with an effective combination between public and private funding.

The FIC recognizes that the current difficult economic situation has led to severe constraints on the healthcare budget. However, to ensure quality care for its population, the Romanian authorities should make spending on health a budgetary priority. The GOR should commit to gradually increasing the healthcare budget as a share of GDP to 6% by the end of 2016, with a clear aim of reaching the European average by 2020 (currently 8.75%).

FIC Recommendations

Healthcare contribution should be collected more efficiently and the contribution base should be widened by eliminating exemptions. New alternative funding solutions for healthcare should be identified with a focus on private contributions and more EU funds in the next programming period (2014-2020).

Funds should be transferred from the state budget to cover the exempted or uninsured population and what is collected from pharmaceutical taxes (claw back) should be reallocated, exclusively, to the medicines budget.

Further measures need to be adopted to increase the efficiency of public health expenditure by developing control mechanisms while informal payments in the system should be legalised, by the introduction of a formal and transparent system of copayment, to correctly reflect the real costs of the medical services.

Access to the market for private insurance companies has to be facilitated by improving fiscal deductions for insurance premiums while fiscal incentives should be offered for private health expenditure made by employers

The fiscal environment should be improved, to encourage the level of foreign investment in healthcare to be maintained or increased.

10.2.2 Clawback tax

The FIC agreed with the introduction of the clawback tax as a temporary fiscal measure. However, more than 5 years have passed since its introduction and the current rate of this tax (25%) on top of usual taxes, sends a strongly negative signal to the business environment, making it more challenging than ever. The low predictability of the budget allocation for drugs is a key concern. Pharmaceutical companies face a challenge in calculating their future clawback contribution, and consequently in evaluating the financial impact, given the absence of multi-annual budgeting in the public sector. Furthermore, the level of the budget should take into consideration the real needs of the market. The tax has an inequitable impact on drug producers, because they also pay it on distributors and pharmacy margins.

FIC Recommendations

The Romanian authorities should make a commitment to the eventual withdrawal of the clawback tax, when the economic conditions are right, and until then it should be revised to make it more predictable and fair. The clawback tax should exclude pharmacy and wholesaler margins and should be applied to the producer’s price.

The funds raised from the clawback contribution should be used exclusively for the drugs budget and multi-annual budgeting should be introduced to increase predictability. The budget allocated to drugs should be reconsidered to reflect consumption in the previous year of the clawback calculation and hospital consumption should be excluded from the this tax.

In order to increase transparency, the healthcare authorities should allow an independent audit of the data on which the clawback tax is calculated.

10.2.3Adequate access to drugs

As mentioned before, Romania ranks second from the bottom, in 35th place, in the EHCI 2014, just above Bosnia and Herzegovina and below Bulgaria and Serbia[9]. In terms of access to innovative medicines, Romania ranks among the last countries in Europe. According to an EFPIA report from 2011, Patients W.A.I.T. Indicator[10], the average time between the date of EU MA and the "accessibility" date at local level was 458 days in the case of Romania, one of the longest waiting periods in the EU.

Since 2008, Romania has rarely updated its list of medicines for which patients can be reimbursed under the health care system. Currently, approximately 100 medicines and new treatments are awaiting approval by the GOR as reimbursable to the patient. The FIC welcomes the adoption of a new Health Technology Assessment (HTA) methodology, in 2014, and the approval for reimbursement of 17 new orphan drugs as well as a further 23 innovative medicines, last year. Nevertheless, even if the 23 medicines are soon approved for reimbursement, the prescription protocols are currently lacking, making the access of patients to these treatments impossible. Moreover, for other major therapeutical areas, cost-volume agreement procedures have not started.

FIC Recommendations

Access of Romanian patients to innovative treatments should be a priority[11].
All subsequent legislation/steps needed to make reimbursement effective should be put in place (e.g. cost-volume, prescription protocols)
The reimbursement list should be updated regularly, twice per year according to current legislation, to ensure proper access for Romanian patients to innovative treatments.

10.2.4Modern IT systems for healthcare

Romania, as a member of the EU, is aligning itself to the EU's overall vision for the future of health care. Since 2014, an Integrated Single Health Care Information System- SIUI (Sistemul Informatic Unic Integrat) has been in the process of introduction. Nevertheless Romania is facing significant challenges in its current IT system infrastructure, due to the still incomplete deployment of existing projects, the current heterogeneous information management systems used by medical service network providers, and the need to integrate new private Health Care Payers into the existing Health Care Value Chain.

The e-Prescription -SIPE (Sistemul Informatic de Prescriptie Electronica) – project, which started in 2012, became operational in 2014 under the regulation of the Romanian National Health Insurance Authority CNAS for the public medical sector and private medical sector (under the condition of a CNAS Reimbursement Agreement). The objective of SIPE is to track patients' medical records, report payments and prevent fraud. Currently the platform manages compensated prescriptions. Major setbacks have included faulty Internet access in rural areas, while several updates have needed to be performed on the input forms leading to a data quality problem. The accuracy of data in the system should be improved in 2015 with the extension of monitoring to the overall prescription process.

The Reporting and e-Invoice – project started in 2013 as part of the extension of the SIUI system to Romania. It includes a web-based connection of health institutions for reporting purposes (including expense forms and invoices). Reporting of activity and subsequent invoicing will be performed based on xml and zip uploads (by type of activity) made by medical providers.

Health e-Cards – Under a project started in 2013, cards began to be distributed from September 2014, and the process is expected to be complete by April 2015. Without medical data registration on the card, the Health e-Card is used for access to medical services and authentication of the patient. Starting from May 2015, the use of health e-Cards will become mandatory in Romania. Major setbacks have included the delay of several medical units in acquiring health e-Card readers. As a mitigation measure, National House for Health Securities (CNAS) has introduced these criteria as mandatory for access to CNAS funding.

The Patient Registries project became operational in 2014 in the public sector and should be progressively deployed. This should include information on medical treatment as well as personal patient information according to the health e-Card stored data.

In relation to the report presented at the eHealth Forum in May, 2014 (a project co-funded by the E.U. Horizon 2020 Research & Innovation Programme), in Europe, at country level, approximately 651 patient registries are in place[12], for different diseases, with France (130), Germany (115), the

9. http://www.healthpowerhouse.com/files/EHCI_2014/EHCI_2014_report.pdf
10. http://www.efpia.eu/documents/33/64/Market-Access-Delays
11. http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/145978.pdf
12. http://ehealth2014.org/wp-content/uploads/2014/06/Pres_Segolene_Ayme_14.00.pdf

UK (70), Italy (70) and Spain (53) in the lead. Unfortunately, Romania has only one functional patient registry, covering Rheumatoid Arthritis, with other registries in place which are not fully operational. These registries can have a critical role in ensuring accurate observation of the course of a disease, the assessment of clinical outcomes, effectiveness and safety of treatment, the assessment of economic outcomes as well as examination of associations between care and outcomes. This allows more informed clinical and policy decision-making.

FIC Recommendations

The provision of all Health Care Providers with IT capabilities, as well as card reader deployment and usage for all family doctors. These simple setups can enable the use of existing health IT integrated systems by all players along the value chain, providing expected outcomes. Training and acquisition funding programs would also be beneficial.

Extension of the SIUI with the registration and follow-up of individual rights to receive medical services according to the yearly basic medical package in the Health Care Information System.

Development of e-prescriptions for uncompensated prescriptions, as well as a move to use of electronic format for notes authorising absence from work for medical reasons and medical referrals (for hospitalization/investigation etc.) to enhance efficiency, aid the collection all necessary data, avoid fraud and properly monitor medical services included in the basic medical package or /and complementary medical services.

Finalisation of the deployment of the e-Prescription along with the e-Invoice and the e-card for all medical services providers in the public and private system and integration of this information into the Patient registry (E-file).

Implementation of the reporting obligation, the integration and aggregation of all medical records from all medical care providers to the proper individual level of detail (consumption, payment, user rights).

Enabling and extending interoperability and data sharing to the private health care payers of medical records (rights and health expenses) to facilitate the payment of medical services and medication in addition to the basic package.

Development of patient registries, for key therapeutic areas, to ensure evidence based decisions on healthcare.

10.2.5Adequate number of healthcare professionals within the Romanian healthcare system

Romania faces a major crisis caused by a lack of healthcare professionals: in 2011 there were an average of 2.5 healthcare professionals for 1,000 inhabitants, compared to the EU average of 3.4[13]. The migration rate is 9% compared to the EU average of 2.5%. In 2013, there were more physicians leaving the country than new graduates so the situation is likely to deteriorate further.

Romania's GDP would increase by 6%, if the country had a labour force with a health status similar to the EU average. Instead it is losing around EUR 18.6 billion (15% of 2010 GDP) of economic output over the medium to long term, as a result of the poor health of its population[14].

The low level of access to healthcare professionals due to migration has a direct effect on the long term health of Romanian citizens. Consequently, the FIC believes that it is critical for the authorities to take steps to deal with this problem, bearing in mind that a healthy business environment depends on a healthy community.

FIC Recommendations

Performance related pay should be introduced in the healthcare sector. The number of available places in medical schools should be increased to bring training of medical professionals into line with the population's real health needs.

Healthcare professionals should be separated from other public sector employees in terms of wage policy and their access to continuous professional development should be improved. The social importance of healthcare professionals should be acknowledged and the role of professional

13. Health at a Glance, 2014, OECD
14. Pharmaceutical Industry in Romania, Main developments and the impact on society and the economy, Romanian Academy, Institute for Economic Forecasting, February 2012

associations in reforming the system should be enhanced. The healthcare system can only be reformed by the healthcare professionals.
Better training, continuous medical education, higher performance indicators and standardised evaluation processes will lead to better performance by healthcare professionals, enabling them to gain a better image, respect and public recognition. However, a higher budget allocation for salaries is ultimately essential to ensure the retention of healthcare professionals.

The public health system should be decentralised as this would also lead to more entrepreneurial management of each medical facility and higher human resources retention rates. National Academic evaluating committees should be set up to issue mandatory professional criteria and curricula per specialty and set up the basis for a more accurate and consistent professional evaluation process.

Cross cooperation should be set up between Romanian and foreign academic structures to expose Romanian talents to the highest technologies and procedures. Team work and interdisciplinary cooperation should be taught and sought after at every stage of medical care, so that they become important factors in evaluating healthcare professionals' performance and patients' feedback. Immigration and visits by doctors to Romania could maintain the balance between entry and exit from the system, provided that performance and training standards are met.

10.2.6 Prevention, health literacy and health promotion – key pillars for a healthy society

Since the last edition of the White Book there have been no significant shifts of the Romanian healthcare system towards prevention and early detection which could have a major impact on public health. The overall allocation of resources should strike an appropriate balance between curative healthcare, disease prevention and health promotion to address current and future health needs. This was also recommended by the World Bank in 2011: "In addition, we are recommending to design and implement Health in All Policies (cross-sectoral population preventive programs), including legislation to reduce risk factors (e.g. tobacco taxes, banning tobacco in public spaces, etc.) and national communications campaigns, and targeted population-based and individual-based preventive interventions and programs to reduce high prevalent risk factors and increase cancer screening, vaccination and growth monitoring[15]."

The recently launched National Health Strategy 2014-2020 establishes as one of its main objectives the decrease of the burden of non-communicable diseases through national, regional and local preventive programs. Although the Strategy involves three strategic directions, most resources are allocated for the development over the next few years of the capacity of primary healthcare staff, while the other two directions - capacity development of the national health promotion network and an increase in knowledge and awareness within the population – do not benefit from the same level of resources.

Of the diseases which have the highest impact on Romanian public health, only cancer is specifically and comprehensively considered. Other important non-communicable diseases, such as cardiovascular diseases are approached only through current national health programs.

The key to achieving successful results with prevention and health promotion initiatives will be the development of integrated programs, covering all diseases which place a high burden on the health system.

Effective implementation of this strategic area would require the development at central level of a unitary concept of health promotion, adapted to the specific needs of the Romanian health system, covering the main topics and involving all the main stakeholders. A setting based approach should be clearly defined, including other settings besides schools, such as local communities and workplaces.

FIC Recommendations

A unitary and integrated concept of prevention and health promotion should be developed at central level to facilitate the implementation of the National Health Strategy 2014-2020. The concept should involve all the main stakeholders and provide efficient mechanisms of performance monitoring.

Funding for the development of strategic prevention and health promotion programs should be increased, in balance with the resource allocation planned for the development of the capacity

15. Romania Functional Review HEALTH SECTOR Final Report April 28, 2011, The World Bank Europe and Central Asia Region, page xix

of primary healthcare staff. An incentive system can be defined for general practitioners to be actively involved in education and prevention programs, including vaccination.

Integrated programs tackling the main behaviours which generate risk (focusing on eating habits, tobacco and alcohol consumption as well as physical exercise) could be developed to promote a healthy lifestyle.

More resources have to be allocated to increase the level of health literacy of the Romanian population – especially in rural areas and the awareness about the importance preventing communicable diseases should be raised.

Education

11.1 Positive Developments

For both the business sector and academia it is important to realise the opportunities and challenges of the current macroeconomic, political, social and cultural situation in Romania, to identify and take advantage of them in order to establish the foundation of a modern country, where its human resources are developed to the maximum. We cannot accomplish this without developing an economic and educational system based on knowledge exchange and social engagement of all stakeholders (from the academic sector to the business environment, from the public sector to the mass-media and civil society).

Currently, almost 70% of jobs in Romania are in sectors with little added value, a situation which has serious economic consequences in the medium and long term: there is a focus on low salaries, with Romania becoming a place of cheap labour. A recent report on global competitiveness published by the World Economic Forum shows that Romania needs to improve the level of practical competences and professional training, to meet economic needs.

Another difficulty is the evaluation systems for professors and students. In the last three years, the pass rate for the national school leaving certificate exam has remained at a low level, under 50% and there are no significant signs that this will improve.

Over the last year, only one Romanian academic institution, the Babes-Bolyai University of Cluj-Napoca, entered the Academic Ranking of World Universities in Mathematics taking 102nd place. It also ranked 81st in the Best Global Universities ranking for mathematics - a significant improvement from last year.

Despite its poor infrastructure, Romania still has the potential to become a regional hub for the creative industries and information technology and important steps have been made in this direction in the last few years. The existing IT infrastructure facilitates knowledge transfer at global standards, without natural barriers.

The current challenges faced by the Romanian education sector include:
1. Low selection standards for the positions of substitute teacher. According to current legislation, the minimum standard for employment as a substitute teacher is a score of 5 in the admission test. In 2014, the percentage of teaching staff who entered the profession with scores no higher than the minimum requirement was above 30%.
2. Low standards of admission to higher education. Few universities apply an admission procedure based on examinations.
3. Unequal criteria for admission to colleges of tertiary higher education. According to the methodology issued in 2014, both pupils with and without school-leaving diplomas are accepted. This creates unfairness and incoherence in performance evaluation, and at the same time it l owers the quality of education. We believe that this problem has become urgent, bearing in mind the pass rate of only around 55% at national level during the last two years (2013 and 2014).
4. Lack of progress in adapting the education system to economic reality. The phenomenon of migration of young graduates and professional people to areas of work which are radically different from those related to their studies is a direct consequence of the lack of balance

between the economic and the educational environment.

11.2 Areas for Improvement

11.2.1 The connection between academia and the business environment

Given the interdependency between the academic world and the business environment, ongoing cooperation between these two sectors is extremely important so that students are prepared to enter the labour market, developing practical skills which make them more employable.

FIC Recommendations

The FIC would welcome the creation of a Think Tank dedicated to education for employability, to act as a channel of communication between the business environment, universities and other relevant actors. This umbrella body would anticipate and analyse tendencies in the market, conduct surveys among relevant stakeholders, submit proposals for improvement of the current situation, present best practices and monitor progress. It would facilitate alignment between the labour market's needs and the career options of students.

11.2.2 Improvement of legislation and the evaluation system

Companies in Romania need predictability of the available human resources (in terms of numbers and skills), as well as to anticipate and influence tendencies in education and the related legislation. Internships are the usual intermediate step between student and the employee status. Through these, the predominantly theoretical academic training is complemented. However, there is currently no legal regulation of internships. The recently passed Law no. 78/2014 establishes only the premises for volunteering, while Law no. 258/2007 establishes the legal status only of pupils and students.

FIC Recommendations

The FIC considers that there should be special focus on the legal framework for internships, with new legislation a priority. The fiscal burden on companies should be reduced, as an incentive to offer internships.

Moreover, given the current focus on theory in class, to the detriment of practical and social skills, direct contact with experts from business would lead to better understanding between the two sectors. The FIC recommends that these experts from companies should be allowed to teach in universities.

A system of recruitment and training for teachers should be implemented, based on performance criteria so that only well-motivated candidates are recruited and promoted. Universities should reintroduce entrance examinations to improve the quality of students, while at the same time testing their reasons for choosing one field of study or another. In addition, in its assessment of the performance of universities, the Ministry of Education should take into account the percentage of students who find work in relation to their chosen field of studies.

11.2.3 Universities and the business environment

Changing the paradigm and investing in education will pave the way for sustainable economic growth.
The business environment has the resources and expertise to connect stakeholders and develop relevant skills through direct input in adapting curricula to fit the current needs of the labour market. It can also encourage initiative and practical training of students by investing in projects that support start-ups and entrepreneurship.

Companies in Romania have already started developing programs engaging several stakeholders to reach this goal. For example, in the last few years, IT companies have invested massively in the technical faculties of the main Romanian universities, improving the educational process, for the benefit of students, who later join their companies, hence generating a clear return on investment.

FIC Recommendations

Better communication should take place between universities and the business community during the entire academic cycle. Consequently, from analysing the context (the opportunities and needs of both sectors), to setting up the curricula, moving to the actual process of teaching, there should be a close cooperation process, which should also take into account relevant stakeholders like civil society or the mass-media.

CSR programs in education should tackle systemic problems and consolidate the poor cooperation between these sectors. Strategic partnerships with the main universities should be developed. Companies should increase the number of internships and create mechanisms to enable the transfer of knowledge (e.g creating a mentoring platform or/and an integrated job platform, as well as developing shadowing programs).
Besides hard skills, there should also be a focus on interdisciplinary, digital and project management skills, which will prepare students to enter the labour market or become entrepreneurs.

11.2.4 Vocational training

11.2.4.1 Enhancing the general reputation of vocational schools

After the collapse of the communist regime, the reputation of Romanian vocational education declined markedly. There were two main causes – (i) The quantitative and qualitative decline of Romanian heavy industry after 1989 (resulting in a significant decrease in the demand for qualified workers) and (ii) A growing attitude that higher education is an essential condition for professional success.

The revival of Romanian heavy industry seen in the past decade (Petrom, Dacia, Arctic, ArcelorMittal etc.) has generated a clear need for qualified workers in almost all industrial areas. There is a need for a change of attitude, so that elementary school graduates with a vocation for a career in industry can receive more encouragement and support to pursue this.

FIC Recommendations

The FIC understands the need for a talented and qualified work force in industry. The FIC also understands the difficulties faced by the Romanian vocational education system, due to common misconceptions as to its value. Consequently, the FIC recommends and supports a focused effort by both the private and public sector towards an improvement in the image of vocational education.

Methods to achieve this could include:
- Official school visits from highly successful professionals in industry, who could present their success stories to children and teachers and the path they followed.
- More visible media campaigns promoting vocational education and its advantages.
- Presentation sessions for teachers and parents inside factories. The sessions should concentrate on the new technologies and work procedures used in heavy industry to eliminate preconceptions about the blue-collar work environment;

11.2.4.2 Bringing vocational schools into close proximity to the great industrialised areas, where they are most needed

The main production centres are located in various parts of Romania, in a very irregular pattern (e.g. Bucharest, Pitesti, Gaesti, Ploiesti, Galati, Craiova etc.). Meanwhile, other regions are underdeveloped (e.g. Vaslui, Bacau, Satu Mare, Tulcea etc.). Consequently, from a geographical standpoint, the Romanian industrial system is highly heterogeneous.

However, this was not always the case. During the communist era, all the main cities were highly industrialised and the main source for qualified work was a complex vocational education system with vocational schools located in close proximity to each big factory. While some factories never closed, and continued to cooperate with their vocational schools (e.g. Dacia and the Industrial Scholar Group etc.) many other industrial complexes ceased their activities, (e.g. Republica, IMGB, ARO, Tractorul etc.). In this context, even though the vocational schools serving these former industrial giants never closed, their graduates are unable to be efficiently integrated in the work field. To solve this problem, a relocation of the vocational schools is urgently needed.

FIC Recommendations

The FIC acknowledges the importance of reorganising the vocational education system and encourages the relocation of vocational schools to bring them into close proximity to the great industrialised areas. There is a clear lack of coordination between supply and demand in the Romanian heavy industry system from a geographical point of view. The FIC also understands that it would not be economically viable for companies to invest in vocational schools located a long way from their premises.

The FIC recommends that public authorities should initiate a reorganisation plan for the vocational education system (with support from interested companies) based on the current needs and geographical locations of factories. The FIC can continue to offer support in drafting and implementing the plan.

11.2.4.3 Simplifying the bureaucratic process involved by setting up a new specialisation at a vocational school

Most companies interested in cooperating with vocational schools have particular needs and requirements from and for their future employees – graduates of the vocational schools. The current curricula do not always cover the required subjects and there is a clear need for new specialisations to be developed, to meet the needs of companies at the existing vocational schools.

However, the current legal procedure for setting up a new specialisation is very complicated and involves many bureaucratic obstacles. In time, this has led to companies avoiding such constructive initiatives.

FIC Recommendation

The FIC recommends the implementation of a new legal framework in vocational education, which will allow interested investors to set up new specialisations within the existing vocational schools.

11.2.4.4 Focusing on career counselling during elementary school to identify suitable candidates for vocational school

Many talented individuals are not always aware of their talent and/or not able to pursue it for administrative/financial/social reasons. Consequently, a lot of very talented young people end up in positions not suited for them, struggling in a field that has no connection with their talent. This inevitably leads to dissatisfaction for the individual, low performance at work and poor social integration.

FIC Recommendations

In order to focus individuals towards their talents and convince them to pursue their passion, the FIC recommends the revival of career counselling during elementary school. The counselling will focus on all the actors involved in the process: children (identifying their talent), teachers (training them to identify and guide talented children) and parents (counselling them on how to support their talented children).
Specific tests should be introduced in the 7th and 8th grade, to help reveal the hidden potential within each student.

11.2.4.5 Fiscal facilities to encourage companies to invest in vocational school and support their development

Currently, there are very little or no fiscal facilities for companies interested in investing in the development of vocational schools. This, alongside other obstacles (see the list above) inevitably leads to reluctance to pursue this type of investment and, eventually, to a continuous decline in the vocational education system.

FIC Recommendation

The FIC believes that the public authorities should launch a thorough analysis of the fiscal environment and its associated legal framework and identify an effective solution for granting fiscal facilities to companies willing to invest in the vocational education system.

Small and Medium Sized Enterprises

12.1 Positive Developments

Small and medium-sized enterprises (SMEs) play a key role in shaping Europe's economy, providing more than two thirds of private sector employment and representing an important factor for economic growth.

In Romania, the SME sector represents 99.7% of the total number of enterprises, contributing approximately 55-56% to GDP.

Romania also has significant socio-political potential in the long-term, for the development of the entrepreneurial and SME sector, which will be supported and stimulated to create current and future business opportunities. The SME sector represents an important source of innovation and makes a crucial contribution to the development of the Romanian economy.

Romania, as a member of the EU, applies European policies to encourage SMEs, as set out in the 2008 Small Business Act. Since the country has a high rural population (46%), there is particular potential for the development of SMEs in the agricultural sector and related industries.

12.1.1 The Government’s SME Strategy for 2014-2020

Several positive developments have occurred in the SME sector in the past two years. In October 2014, the Governmental Strategy for SME development in Romania and improvement of the business environment until 2020 was approved.

This strategy is focused mainly on two directions:

a) Creating appropriate local market economy operations.
b) Developing conditions for Romanian SMEs to successfully approach external markets.

The Romanian Government is focused on the continuous development of the SME sector in the period 2014-2020 by adopting strategic measures, allocating important public resources, through its institutions and performing systematic activities to encourage the entrepreneurial spirit. The strategy aims to encourage the setting up of new small and medium sized entities, and to stimulate existing ones to increase their competitiveness on local and international markets.

The strategy establishes Government policy for the next 7 years, which aims to increase the total number of SMEs nationwide, as well as to improve their distribution across the country, with a particular focus on those counties where the total is below the European average.

12.2 Areas for Improvement

12.2.1 The SME environment

Romanian SMEs have specific strengths and weaknesses that require special policy and strategy

actions.
Many of the traditional problems facing Romanian SMEs – lack of financing, difficulties in taking advantage of technology, constrained managerial capabilities, low productivity, and regulatory burdens – have become more acute in a globalised, technology-driven environment.
Small Romanian firms need to upgrade their management skills, their capacity to gather information and their technology base. The GOR needs to improve SME access to financing, information infrastructures and international markets.

The FIC advocates government policy and regulation to support the development of Romanian SMEs through the provision of regulatory, legal and financial frameworks conducive to entrepreneurship and small firm start-up and growth.

In this context, the GOR approved the National Strategy for Developing the SME sector in October 2014.

Recognising the National Strategy as an important step for SME growth in Romania, the FIC is keen to support the relevant Government bodies in implementing the following measures in the Strategy.

FIC Recommendations

FIC recommends the creation of new local and regional business structures to support new SMEs, as well as to help existing ones to operate successfully. The Government should support with expertise existing business structures or facilitate the setting up of new ones (incubators, clusters) that should adequately correlate with the Competitiveness Poles.

FIC encourages the establishment, development and operation of business support structures networks that would improve the capabilities of SMEs to seize business opportunities (i.e. clusters networks, incubators networks, competitiveness poles).

Integration of entrepreneurship as a key part of the curriculum at higher education level is important couple with the provision of support for the public to educate itself and to understand financial terminology. An appropriate curriculum should be developed to support an entrepreneurial culture among students and financial training should be provided for university professors.

12.2.2 Absorption of European Funds for 2014-2020

SMEs represent a substantial part of the Romanian economy and consequently they should benefit from considerable allocations from EU Funds. Along with this allocation certain steps should be taken to make sure that SMEs will have a higher absorption rate than in the past. In the period 2007-2013 the absorption rate was poor, and this needs to improve.

FIC Recommendations

The Government should make sure that the various strategies affecting SMEs are harmonised, and do not contradict each other. The National Competitiveness Strategy, the SMEs Competitiveness Strategy and Regional Development plans should all follow the same national strategic lines.
Certain activities performed by Management Authorities and Intermediary bodies should be externalised towards banks, consulting firms or other private entities which can offer integrated grant management schemes. SMEs could thus find it easier to access EU funding.

A multi annual timetable for all programs designed for SMEs (European or national) should be developed and calls for proposals should be opened in the last months of the previous year. There should be clear terms for the evaluation of projects and for signing financing agreements. This will allow SMEs enough visibility to plan future investments.

The portfolio of financial instruments available for SMEs should be further diversified to support traditional instruments like subsidies, loans, guarantees and capital investments. Innovative financial instruments could increase the absorption rate because they could provide the needed flexibility for SMEs to use financial instruments properly designed for their specific needs.

EU funds applications for SMEs should benefit from simplified bureaucratic procedures. All documentation should be standardised and SMEs should not be required to provide exhaustive documentation before knowing that financing will be approved.

12.2.3 Private equity fund for SMEs

In terms of financing, Romanian SMEs have a high debt profile, blocking access to additional leverage (in relations with banks or other financial players) even when their businesses are sound, and they have development opportunities. They need capital to consolidate running their businesses and for expansion.

There is a market opportunity for a private equity mechanism which would help SMEs add value to their businesses. The opportunity is attractive since there are a large number of target companies (SMEs have not implemented profit and value improvement programs to the degree that large companies have).

A private equity fund dedicated to SMEs would have a positive impact on job creation and knowledge transfers and would also increase the value of companies.
The fund's purpose should be the following:

- New business development for the expansion or restructuring of existing companies.
- Technical and financial support for SMEs to help them develop their businesses.
- Provision of sustainable direct capitalisation, to increase scale and eventually facilitate further access to financing.

FIC Recommendations

The FIC recommends the setting up of a private equity-like entity, with public-private capitalisation. Two entities need to be created: the fund itself and the management body to run the fund's business. The management of the fund should have a private investment approach focused on operational changes and a value creation plan (incentivised management, efficient board of directors, detailed planning process, restructuring, revenue & profitability growth initiatives, IT platforms, and acquisitions). The fund should also have an exit focus and should not plan to invest for a time horizon longer than three to five years. Returns from investments should be reinvested in the fund. The fund could develop partnerships with recognised International Financial Institutions (EBRD, IFC, EIB) to support the sustainable development of emerging markets. Even though the fund could be capitalised with public money its management should be private with a clear mandate (similar to Fondul Proprietatea).